

1 AUGUST 1946

I N D E X

Of

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I N D E X

Of

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238		Supplementary Agreement Attached to the Treaty of 10 June 1936		2949
239		Cabinet Decision of 22 Oct. 1937 re establishment of heavy industry in Man- chukuo		2960
240		Letter dtd 25 Oct 1935 from Chief of Staff of the Kwantung Army to FURUSO, Vice Minister of War re plans for directing and controlling public opinion in Manchukuo	2967	2967
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I N D E X

Of

EXHIBITS

(continued)

<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
		General Staff of the Kwantung Army 14 May 1938 and one from the Vice Minister of War to the Chief of the General Staff of the Kwantung Army 24 May 1938		2997
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245		Affidavit of MORISHIMA, Morito		3009
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1 Thursday, 1 August, 1946

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment, at
10 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as before.

15 For the Defense Section, same as before.

16 - - -

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18 (English to Japanese and Japanese
19 to English interpretation was made by the
20 Language Section, IMTFE.)
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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.

THE PRESIDENT: Does counsel desire to men-
tion any matter?

(No response)

THE PRESIDENT: Mrs. Llewellyn.

MRS. LLEWELLYN: May it please the Tribunal,
the prosecution offers document No. 887-A. This is
a supplementary agreement attached to the Treaty of
June 10, 1936, Court exhibit No. 237, which is al-
ready admitted in evidence.

THE PRESIDENT: It will be admitted on the
usual terms.

CLERK OF THE COURT: Prosecution's document
No. 887-A will receive exhibit No. 238.

(Whereupon, the document above re-
ferred to was marked prosecution's exhibit
No. 238 in evidence.)

MRS. LLEWELLYN: (Reading)

"SUPPLEMENTARY AGREEMENT

"In signing today the treaty between Japan
and Manchukuo concerning the residence of Japanese
subjects, taxation, etc. in Manchukuo, the respective
plenipotentiaries of the two countries have agreed
as follows:

1 mining, zinc, lead, copper, and other mining in-
2 dustry.

3 "4. The Manchurian government will transfer
4 gradually the now existing companies executing such
5 enterprises as prescribed in (a) and (b) articles
6 to the supervision of the present company, and com-
7 panies having relations to the enterprises prescribed
8 in the (a) to (d) articles, when newly established,
9 will also be put under the supervision of the present
10 company. The investments of the Manchurian Railway
11 on the enterprises of the above-mentioned nature will
12 be adjusted according to the preceding article on
13 the agreement of the present company.

14 "5. The participation of foreign funds
15 in the above-mentioned enterprises will be permitted,
16 and the inducement of foreign funds are to be de-
17 vised as well as the foreign technique and equip-
18 ment. Special stress shall be laid on this as an
19 important matter in the present policy.

20 "The foreign funds may participate in each
21 respective company within the limit of possessing
22 half the right of voting, and concerning the present
23 company, it may participate as a stock fund only
24 in shares without the right of voting. Invest-
25 ments as debentures and in forms of other loans are

1 not restricted.

2 "The general capitals of Japan and Manchukuo
3 may participate appropriately in each enterprising
4 company.

5 "The Japanese and Manchurian government will
6 give accomodation and assistance to the utmost as
7 to the utilization of the capital transferred from
8 Nissan to the present company, and in the obtaining
9 of necessary capitals in the future.

10 "The Manchurian government will think of
11 some suitable good treatment towards the investments
12 in the present company and in the respective com-
13 panies made by the Japanese and Manchurian privates
14 or by the foreign countries, and the Japanese govern-
15 ment will assist in the trusting advancement of these
16 capitals towards Manchukuo in ways such as
17 facilitating the circulation of the shares of the
18 concerning companies in the home market.

19 "The Nittetsu and the present company will
20 participate reciprocally in the capitals concerning
21 the iron and steel industry.

22 "The management of the present company will
23 be entrusted to a powerful suitable person among the
24 Japanese civilians.

25 "Allonge: The powerful suitable person

1 among the Japanese civilians is pre-arranged as
2 Aynkawa Gisuke, the present president of Nissan, at
3 present.

4 "The Manchurian government will adopt adequate
5 supervising methods over the present company and other
6 enterprising companies, and will hold a close com-
7 munication with the Japanese government concerning
8 the above supervision.

9 "On importing the products of the above-men-
10 tioned companies into the domains of Japan, the Jap-
11 anese government will not in reality handle them as
12 foreign goods in relation to customs duties and
13 other things."
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1 We next offer in evidence IPS document No.
2 644. This is a letter dated October 25, 1935 from the
3 Chief of Staff of the Kwantung Army to FURUSO, Vice
4 Minister of War, concerning plans for directing and
5 controlling public opinion in Manchukuo.

6 THE PRESIDENT: Admitted on the usual term.

7 DEPUTY CLERK OF THE COURT: Prosecution's docu-
8 ment No. 644 will receive exhibit No. 240.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 240 for identification, and was received
12 in evidence.)

13 MR. SACKETT: (Reading)

14 "LETTER NO. KAN-SEN-HATSU 163

15 "FROM: NISHIO, Toshizo, Chief of Staff of the Kwantung
16 Army

17 TO: FURUSO, Mikio, Vice Army Minister, 25 October
18 1935

19 SUBJECT: Concerning Plans for Controlling Organs
20 Directing Public Opinion in Manchuria.

21 "I herewith send the enclosed record of
22 resolutions of the KOHO Committee which we had re-
23 ported in the telegram No. kan-sen-den 220.

24 "PLAN FOR THE CONTROLLING ORGANS DIRECTING
25 PUBLIC OPINION IN MANCHURIA

"Object

"This plan aims at the unification of press and news agencies under the Japanese Government, the Manchukuo Government and the Manchurian Railway Co. Ltd. as well as the rationalization of the management, in order to secure the independence of public opinion in Manchuria and to facilitate and ascertain the unitary control and execution of propaganda by which is necessary to accomplish the national policies.

"Outline

"The following press and news agencies under the guidance of the Japanese Government, the Manchukuo Government and the Manchurian Railway Co. Ltd. shall be unified and consolidated into one, 'The Manchuria Koho Association.'

The Manchukuo News Agency

Manchuria Daily News

Mukden Daily News

Groat Hsinking Daily News

Harbin Daily News

Seikyo Times

Daido-Ho

Manchu-Mongolia Daily News

English Manchurian Newspaper

Russian Harbin Times

Shimin

Manchurian State of Affairs Information Bureau

"This association shall be a foundation. Among the above mentioned press and news agencies, the companies which are not foundations shall be immediately included in this association and the companies which are juridicial persons shall be included after legal procedures. Some companies included into this association may be combined with others or abolished."

Skipping the next item, No. 3, all of the next page, and continuing at Item No. 5 in the middle of page 3.

"5. Propaganda in Manchukuo conducted by this association shall be carried out chiefly by the press offices and propaganda to foreign countries shall be carried out by the news agencies with the help of the press. For the above mentioned object, this association shall decide upon the policy and means for propaganda and convey them to the companies and control their propaganda operations.

"6. The expenses required by the association shall be managed according to the following stipulations:

"1. After the formation of the association, it shall be managed by the expenses of the companies that belong to it.

1 "2. The subsidies being given to the
2 companies at present by concerned bodies shall
3 be continued. In future above-mentioned sub-
4 sidies shall be given to the Association by the
5 Koho Committee.

6 "3. The expenses required in forming
7 the association shall be paid by the Kwantung
8 Army, the Manchukuo Government and by the Man-
9 churian Railway Co. Ltd., though it is a matter
10 to be decided upon at each occasion.

11 "7. Organs in Japan and Manchuria connected
12 with this association shall control and direct this
13 association by the following means in order to have
14 the movements of this association in full cooperation
15 towards the accomplishment of our national policies.

16 "1. This association shall be given
17 necessary directions by the Koho Committee con-
18 cerning the authority of guiding public opinion.

19 "2. The personnel administration of the
20 managing staff of this association and the news
21 agencies belonging to this association shall be
22 decided upon with the consent of the Koho Committee.

23 "8. The following policies shall be adopted
24 to help the development of this association:

25 "1. The establishment of a new press

1 shall not be permitted, but new local editions
2 may be published if necessary. The buying up
3 of the remaining existing newspapers by others
4 shall be avoided and they shall be left to take
5 their own course.

6 "2. The printing of Manchurian editions
7 of home papers in Manchukuo shall be prohibited
8 and efforts shall be made to check their illegal
9 debouchment."
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1 MR. SACKETT: We next offer in evidence IPS
2 document No. 947. This document is the minutes of the
3 Privy Council meeting on September 13, 1932, in the
4 presence of the Emperor, held for the purpose of deter-
5 mining the form of protocol between Japan and Manchukuo.

6 THE PRESIDENT: Admitted on the usual terms.

7 MR. SACKETT: I would like to point out to the
8 Tribunal that there is evidence before the Court that
9 Japan formally recognized Manchukuo on September 15, 1932.

10 DEPUTY CLERK OF THE COURT: Prosecution's docu-
11 ment No. 947 will receive exhibit No. 241.

12 (Whereupon, the document above
13 referred to was marked prosecution's exhibit
14 No. 241 for identification, and was received in
15 evidence.)

16 MR. SACKETT: (Reading) "Proceedings of the
17 Privy Council with reference to Signing of the Protocol
18 between JAPAN and MANCHUKUO."

19 "Meeting opened at 10:10 a.m. September 13
20 (Tuesday), 1932. In the presence of His Majesty the
21 Emperor."

22 Then there follows, your Honor, a list of per-
23 sons present and absent which I will not read other than
24 to point out that present at the meeting as Vice-Chair-
25 man was HIRANUMA. Also present at the meeting was War

1 Minister ARAKI.

2 I will continue with the next to the last para-
3 graph on page 2.

4 "Chairman (KURATOMI): Meeting is called to
5 order. The subject for discussion today is 'Re:
6 Signing of the Protocol between JAPAN and MANCHUKUO.'
7 Please note that, because today's meeting has suddenly
8 been called at the request of the Cabinet, the usual
9 procedural steps such as convocation, etc., were dis-
10 pensed with. First of all, we open the 1st reading.
11 Omitting the oral reading, I request the report of the
12 chairman of the Judging Committee.

13 "Reporter (HIRANUMA): Regarding the signing
14 of the Protocol between JAPAN and MANCHUKUO, which
15 had been referred to this council by His Majesty the
16 Emperor for deliberation, we, who were appointed members
17 of the Judging Committee, called a Committee meeting
18 on the 11th of this month and instituted a close in-
19 vestigation into the matter, after having listened to
20 the explanations given by Ministers and the officials
21 concerned.

22 "When the old North-Eastern Regime was destroyed
23 with the outbreak of the Manchurian Incident in September
24 of last year, influential persons in various districts
25 of MANCHURIA and MONGOLIA assembled and consulted with

1 each other. As the result, they declared on March 1,
2 this year, the establishment of MANCHUKUO, whereby
3 they broke off relations with the Republic of CHINA
4 and established MANCHUKUO. They further made public
5 the principles of the foundation of the new country,
6 making clear to the world a very fair and proper
7 political programme. Further, the Manchukuo Govern-
8 ment gave notifications to our Imperial Government
9 as well as other governments, with the request that
10 formal diplomatic relations be established between
11 MANCHUKUO and these countries. Our Imperial Govern-
12 ment firmly believed that, in view of the aforesaid
13 process of the establishment of MANCHUKUO and her
14 sincere attitude at home and abroad, it would be
15 advisable to recognize that country without delay
16 and foster her development not only to maintain the
17 stability of MANCHURIA and MONGOLIA, but also to
18 promote permanent peace in the Far East. Neverthe-
19 less, our Government, in order to use prudence and
20 caution, watched for half a year since then the
21 developments in MANCHUKUO as well as the attitudes
22 of the League of Nations and other countries. How-
23 ever, MANCHUKUO has since then shown a steady progress
24 and already realized actual independence, which prom-
25 ises for her a very bright future. Besides, indica-

1 tions are that our country's recognition of that
2 country, although it will, as may be easily ima-
3 gined, cause for a time no small shock to the world,
4 will not bring about any international crisis. Under
5 the circumstances, our country considered it advisable
6 at this juncture to give MANCHUKUO our formal recog-
7 nition and open friendly relations with her. As the
8 result of negotiations carried for some time between
9 the representatives of the two countries, an agree-
10 ment of opinion has been arrived at. Accordingly,
11 with a view to regulating the basis of diplomatic
12 relations between the two countries and also main-
13 taining and extending the rights and interests of
14 our country with the object of co-existence and co-
15 prosperity, our country intends to take measures for
16 recognizing MANCHUKUO by concluding an arrangement
17 through this Protocol and the Notes exchanged between
18 the two countries.

19 "The outlines of this Protocol and Notes
20 exchanged are as follows:

21 "1. Protocol

22 "This protocol consists of a preamble and
23 a text. In the preamble, our country approves the
24 fact that MANCHUKUO was freely formed by the will of
25 her people and became an independent state. MANCHUKUO

1 on the other hand, declared that she will respect
2 the international agreements concluded by the Republic
3 of CHINA so far as the same are applicable to MANCHU-
4 KUO. Thereupon the two countries announce that they
5 enter into this Protocol in order to permanently
6 strengthen their good neighborly relations, mutually
7 respect each other's territorial integrity, and se-
8 cure peace in the Far East. The text contains two
9 clauses:

10 "The first clause provides that, unless
11 special arrangements are made between JAPAN and
12 MANCHUKUO in the future, all rights which JAPAN and
13 her subjects possessed heretofore in MANCHUKUO terri-
14 tory under various Sino-Japanese arrangements and
15 public and private contracts shall be confirmed and
16 respected by MANCHUKUO.

17 "The second clause provides that both JAPAN
18 and MANCHUKUO shall consider every menace against
19 the territory and peace and order of one party as a
20 menace against the tranquility and existence of the
21 other party, that they pledge to jointly defend them-
22 selves, and that, Japanese troops necessary for this
23 purpose shall be stationed in MANCHUKUO.

24 "This protocol shall come into force on the
25 date of its signature (Refer to the closing sentence.)

1 by the representatives of the two countries. That
2 is, Imperial sanction must be obtained before signing,
3 instead of resorting to ratification procedure.

4 "2. Notes exchanged /between the two coun-
5 tries/.

6 "The notes exchanged comprise four in all,
7 consisting of a note exchanged in the past between
8 the Commander of the KWANTUNG Army of JAPAN and the
9 Regent of MANCHUKUO and three arrangements concluded
10 between the Commander of the KWANTUNG Army of JAPAN
11 and the Prime Minister of MANCHUKUO. The MANCHUKUO
12 Government confirms these notes at this time and posi-
13 tively declares that these notes shall continue to
14 remain effective. That is, these notes shall be
15 deemed as international agreements and shall have
16 legal validity, in addition to the virtual effective-
17 ness they hitherto possessed, to be retroactively
18 effective from the days on which they were exchanged
19 or concluded and that these arrangements shall be
20 made strictly confidential by mutual understanding
21 between both JAPAN and MANCHUKUO.

22 "The outlines of the said four documents
23 and for arrangements are as follows:

24 "(1) A letter addressed to HONJO, Com-
25 mander of the KWANTUNG Army, from the Regent of MAN-

1 CHUKUO under date of March 10, 1932 and a letter
2 in reply addressed to the Regent of MANCHUKUO from
3 the Said Commander.

4 "In the letter addressed to the Commander
5 of the KWANTUNG Army from the Regent of MANCHUKUO,
6 it is stated that the Regent of MANCHUKUO deeply ap-
7 preciated the efforts made by our country since the
8 outbreak of the MANCHURIAN Incident in maintaining
9 peace and order in the whole territories of MANCHU-
10 RIA and MONGOLIA and also the serious damages sus-
11 tained thereby by our Imperial Army as well as our
12 people, and asked for the consent of our country to
13 the undermentioned items inasmuch as MANCHUKUO is
14 convinced that her development cannot be expected
15 without the support and guidance of our country. In
16 the letter in reply thereto, viz., the letter address-
17 ed to the Regent of MANCHUKUO from the Commander of
18 the KWANTUNG Army, it is mentioned that there is no
19 objection on our side to the proposal in question.

20 "A. MANCHUKUO shall entrust to our coun-
21 try her national defense and maintenance of peace
22 and order and shall bear all the necessary expenses
23 therefor (Clause I)

24 "B. MANCHUKUO agrees that the control of
25 the existing railways, harbours, waterways, air

1 routes, etc., as well as the construction of new
2 routes so far as the same are required by our Im-
3 perial army for the purpose of national defense shall
4 be wholly entrusted to our country or such organiza-
5 tions as our country may designate (Clause II)

6 "C. MANCHUKUO shall give every possible
7 assistance in connection with various establishments
8 deemed necessary by our Imperial Army. (Clause III)

9 "D. Japanese with long sighted views and
10 high reputation shall be appointed state councillors
11 of MANCHUKUO and, besides them, Japanese shall be
12 appointed officials of central as well as local govern-
13 ment offices. The selection of such officials shall
14 be made on the recommendation of the commander of
15 the KWANTUNG Army and their dismissals shall be sub-
16 ject to the consent of the said Commander. The in-
17 crease or the decrease of the total number of state
18 councillors shall, in case our side has a proposal
19 to make, be decided through consultations between
20 the two countries (Clause IV)

21 "E. The purport as well as the provisions
22 of the afore-mentioned clauses shall be the basis of
23 treaties to be concluded in future between the two
24 countries. (Clause V)

25 "(II) The convention and supplementary

1 agreement on the control of MANCHUKUO Government
2 railways, harbours, waterways, air-routes, etc.,
3 as well as the construction and control of railway
4 tracks, concluded between Commander HONJO of the
5 KWANTUNG Army and MANCHUKUO Prime Minister CHENG
6 under date of August 7, 1932."

7 I will now omit the rest of that page,
8 the following page, the first paragraph of page 7,
9 and will read the second paragraph.

10 "(III) Agreement relative to the estab-
11 lishment of an air-way company, concluded between
12 the Commander of the KWANTUNG Army and Prime Minis-
13 ter CHENG under date of August 7, 1932."

14 I will omit the details appearing on the
15 rest of that page and proceed with (IV) on the next
16 page, middle of page 8.

17 "(IV) Agreement relative to the establish-
18 ment of mining right necessary for national defense,
19 concluded between Commander MUTO of the KWANTUNG
20 Army and Prime Minister CHENG under date of September
21 9, 1932."

22 I will next drop to the last paragraph on
23 this page.

24 "Of the above-mentioned various documents,
25 the Protocol and the Second, Third, and the Fourth

1 out of the Notes exchanged, that is, the Agreements
2 concluded between the Commander of the KWANTUNG Army
3 and the Prime Minister /of MANCHUKUO/ shall be writ-
4 ten in both Japanese and in Chinese. In the event
5 that any doubts occur as to the interpretation there-
6 of, the decision shall be made according to the Ja-
7 panese text. (Refer to the closing sentence of the
8 Protocol, and others.)

9 "Now that MANCHUKUO has become independent
10 by the will of her people and has already completed
11 the substance of a new state, we consider it a matter
12 of course for our country to recognize that country
13 in order to establish permanent peace in the Far
14 East. And in view of the fact that the objectives of
15 the arrangements under consideration are to recognize
16 the independence of MANCHUKUO, to regulate the foun-
17 dation of the relations between JAPAN and MANCHUKUO,
18 and at the same time to secure and extend our proper
19 rights and interests, these arrangements may be con-
20 sidered as very opportune measures. However, since
21 in connection with the enforcement of these arrange-
22 ments there will arise many problems important to
23 our country, our authorities concerned must endeavor
24 to cope with the situation properly, taking every
25 possible precaution in regard to various matters.

1 Especially, as it will greatly affect the finance
2 of our country in the future, we cannot but wish
3 ardently that an appropriate financial programme
4 would be immediately adopted so as to have it en-
5 forced properly. Under the circumstances, it has
6 been unanimously agreed upon by the Judging Committee
7 that this bill be passed without modification, to-
8 gether with the above- mentioned wishes.

9 "The foregoing is the report on our find-
10 ings.

11 "No. 33 Councillor (OKADA) I am in favor
12 of this bill and have no objection at all, but I
13 consider that the Manchurian question cannot be
14 settled merely by our recognition of MANCHUKUO, I
15 should think that difficult problems rather lie in
16 future. I therefore take this opportunity to ask
17 for the views of the authorities concerned on one
18 or two points.

19 "I consider that at this juncture the ut-
20 most consideration should be given to international
21 relations. The explanations given to the Diet by
22 the Ministers concerned in regard to the so-called
23 Anti-War Pact was quite to the point, but I think
24 that the existence of the Nine-Power Pact is a
25 source of evil. Although the Foreign Minister ex-

1 plained in the Diet that our recognition of MANCHUKUO
2 would not contravene the Nine-Power Pact, the UNITED
3 STATES and others will not be satisfied with such
4 explanations. Further, the Foreign Minister stated
5 that MANCHUKUO had become independent by the free
6 will of her people and that JAPAN had not agreed by
7 the Nine-Power Pact to prevent the independence of
8 the Chinese People. For example, he said, supposing
9 that CANTON became independent, the countries signa-
10 tory to the said Pact are not under obligation to pre-
11 vent this independence. However, the Americans might
12 say that it would be all right if MANCHUKUO had be-
13 come independent by the free will of her own people,
14 but that it is a violation of the said Pact and a dis-
15 regard of CHINA's sovereignty for JAPAN to assist and
16 maintain this independence.

17 "The Foreign Minister's explanations on
18 this point is inadequate. What explanation is the
19 Foreign Minister prepared to give in reply to this?
20 Besides, a comparison of the secret agreements in
21 this bill with the Nine-Power Pact shows that there
22 are not a small number of points of doubt in respect
23 to the conflict between the two. I wish to ask how
24 will the Foreign Minister explain this. Moreover,
25 is it possible after all to keep the agreements

1 strictly confidential? It may be possible for JAPAN,
2 but it is hardly possible for MANCHUKUO to do it.
3 I consider it advisable to assume that secrecy cannot
4 be kept. In the event that the secrets are divulged,
5 CHINA will not remain silent and she will demand
6 the convocation of a conference of the countries
7 signatory to the Nine-Power Pact. If, as a result
8 of such a conference, JAPAN's movements be decided
9 to be a violation of the said Pact, I consider
10 JAPAN would be placed in a very difficult position.
11 Therefore, the authorities concerned should be
12 fully prepared for such a contingency. Nay, such
13 preparedness alone is unsatisfactory. Preparations
14 should be made beforehand to prevent such clash.
15 In this connection I would like to ask the Foreign
16 Minister what preparation he has made to cope with
17 this matter.

18 "No. 7 (UCHIDA) Before answering Councillor
19 OKADA's questions, I wish to say that we will do
20 our utmost to meet the wishes of the Judging Committee,
21 giving careful consideration to the advice and wishes
22 given in the report of the Judging Committee. As
23 to the Nine-Power Pact, the first question of Councillor
24 OKADA, I think I have fully explained our attitude.
25 The action of the Japanese Army to cope with the in-

1 cident which occurred on Sept. 18 of last year was
2 nothing but the exercise of our right of self-de-
3 fense. It is true, however, that this action was
4 availed of by the thirty million people of MANCHUKUO
5 for creating a new state, but it is not in the least
6 improper to recognize that the creation of the new
7 state was entirely based on the free will of the
8 people of MANCHUKUO. The Nine-Power Pact provides
9 that the Chinese territorial integrity shall be re-
10 spected, but it makes no provision at all for a case
11 where a part of CHINA becomes independent as the re-
12 sult of CHINA's own disintegration. Of course, in
13 this respect, various views are held in the UNITED
14 STATES and other countries, but these are their own
15 views. For our part, we should go ahead with the
16 view given above. Of late, the motive and process
17 of the creation of this new state have come to be
18 generally understood and the feelings of the Powers
19 also have been eased to no small degree. In fact,
20 when Ambassador DEBUCHI recently approached the Ameri-
21 can Government authorities and informally asked if
22 they would protest in case JAPAN should recognize
23 MANCHUKUO, they replied that they had not the slight-
24 est intention of making a protest or convoking a
25 Nine-Power conference, inasmuch as there was no hope

1 of such a conference reaching any conclusion. Be-
2 sides, the convocation of Nine-Power conference will
3 be opposed by some of the European countries.

4 "As to the second question, namely, whether
5 or not there is doubt that the contents of the strict-
6 ly secret treaty are incompatible with the Nine-Power
7 Pact, I am confident that there is no conflict be-
8 tween the two, as I have just stated. The powers
9 are concerned with the open-door principle, principle
10 of equal opportunity, etc., but we do not see any
11 conflict between the documents of this bill and these
12 principles. I see no objection to the fact that
13 JAPAN has been entrusted by MANCHUKUO with such mat-
14 ters as that country can do herself. As to the ques-
15 tion what will be done in the event that the secret
16 arrangements between JAPAN and MANCHUKUO are divulged,
17 I do not believe it would leak out from our side, and
18 therefore, MANCHUKUO is being cautioned to take special
19 care to prevent leakage on her side. Even if by any
20 chance it should leak out, I firmly believe that there
21 is nothing to be ashamed of.

22 "No. 33 (OKADA) I now understand the situa-
23 tion from the explanation given just now by the Foreign
24 Minister, but my sole anxiety is whether or not the
25 Powers will be satisfied with such explanations. In-

1 asmuch as I am inclined to think that there will be
2 some nations that will surely oppose the conclusion
3 of this treaty. I wish that sufficient study and
4 preparations would be made beforehand.

5 "No. 22 (ISHIGURO) I feel not a little re-
6 lieved by the explanations given by the Foreign Minis-
7 ter, but the 2nd Note exchanged, that is, the letter
8 addressed to the Commander of our army from Premier
9 CHENG contains the following sentence: 'This country
10 shall entrust the national defense and maintenance of
11 public peace in future to your country, all necessary
12 expenditure for which shall be borne by our country.'
13 Is there any time limit to this? And is the military
14 expenditure being borne by MANCHUKUO at present also?

15 "No. 9 (ARAKI) At present, no budget for
16 this has been provided by MANCHUKUO, but according to
17 the program of our War Ministry authorities, MANCHU-
18 KUO will be able to defray some part of the expendi-
19 ture after 1933 if her internal conditions become
20 stabilized, since she has reliable income from rail-
21 ways. After a lapse of about five years, I think
22 MANCHUKUO will be able to defray the necessary ex-
23 penditure.

24 "(ISHIGURO) Is it impossible to obtain pay-
25 ment for the expenses before the lapse of five years?

1 "(ARAKI) The national defense of MANCHUKUO
2 is at the same time the national defense of our
3 country. Consequently I consider it not fair and
4 reasonable to make MANCHUKUO alone bear the whole
5 amount of expenses necessary for national defense.
6 It will be possible, I think, for MANCHUKUO to pay
7 annually 9,000,000 Yen from the year 1933, and
8 40,000,000 or 50,000,000 Yen after five years.

9 "(ISHIGURO) Do you mean to say that 9,000,000
10 Yen can be paid in the coming year?

11 "(ARAKI) Although it is only a plan, I
12 believe that an annual amount of 9,000,000 Yen can
13 be paid by that country, provided that the country
14 is stabilized.

15 "(KURODA) It is a matter for congratulation
16 that our empire has now concluded an offensive and
17 defensive alliance with MANCHUKUO. Judging from
18 the explanations and answers given just now by the
19 Foreign Minister, our future relations with other
20 countries will become more and more eventful. I
21 therefore hope the authorities would give careful
22 consideration to the maintenance of amicable and har-
23 monious diplomatic relations with the Powers. The
24 defrayment of expenses, of course, should be cautious-
25 ly handled, but inasmuch as /the national defense of

1 MANCHUKUO/ is also the national defense of our coun-
2 try, it is hoped that the Army and Navy would give
3 due consideration to the matter. Inasmuch as the
4 present action of JAPAN is to exalt the fundamental
5 spirit of our empire, I anxiously desire that the
6 whole people, united as one, would do their utmost
7 to settle the MANCHURIAN question.

8 "(ISHII) I wish to express my heartiest
9 endorsement of the signing of the Protocol between
10 JAPAN and MANCHUKUO. On looking back, the past one
11 year has been really a year of so-called extraor-
12 dinary emergency in which our country trod a very
13 critical path. However, thanks to the proper mea-
14 sures taken by the present cabinet since its forma-
15 tion, we have now arrived at the stage of concluding
16 a JAPAN-MANCHUKUO Alliance treaty, whereby MANCHUKUO
17 has been recognized. This is a matter for congra-
18 tulations to our country.

19 "JAPAN vs. the MANCHURIAN question and
20 JAPAN vs. the international problem were the two pro-
21 blems over which I had deeply worried, because my
22 doubts had not been dispelled throughout the previous
23 Cabinet and the one before it. JAPAN possessed from
24 the outset special rights and interests in MANCHURIA.
25 Therefore, our position was a special one. Since

1 last year, while we were repelling CHINA's infringe-
2 ment of those rights and interests, we inadvertently
3 perceived an intention on the part of the Manchus
4 and Mongols of gaining independence and gave them
5 facilities for realizing their aspiration. This was
6 only proper for us to do. However, what I feared
7 was that MANCHURIA and MONGOLIA, after they became
8 independent, would later on come to lack mutual un-
9 derstandings. Such men as NU-CHEN and YUAN, who
10 threatened against JAPAN in the past, were Mongols.
11 Even if the Mongols respect JAPAN as a leader today,
12 who knows that they will not in the future change
13 their attitude and ignore our rights and interests,
14 becoming a second CHANG HSUCH-LIANG? In Europe there
15 is a nation which met with unexpected calamity owing
16 to its failure to make necessary preparations in in-
17 ternational negotiations. I called the attention of
18 our authorities by citing the case of BULGARIA. How-
19 ever, I now observe that our vested rights have been
20 fully secured, according to the Notes exchanged. This
21 has dispelled my doubts, and I feel exceedingly glad.
22 Secondly, I feel very uneasy about JAPAN's contention
23 in regard to the connection between the Manchurian
24 problem and the League of Nations. The main point
25 of our contention was that JAPAN cannot agree to the

1 disposition of the Sino-Japanese dispute over MAN-
2 CHURIA by the council of the League of Nations under
3 Article XV of the League's Covenant. It was my fear
4 that, inasmuch as some countries among the members
5 of the League had laid before the League, prior to
6 resorting to war, disputes arising inside their own
7 territories and had received deliveration under Ar-
8 ticle XV, JAPAN's contention could not be carried
9 through after all. I considered that, should the dis-
10 pute over MANCHURIA, which is not Japanese territory,
11 be disposed of according to Article XV, Japan's con-
12 tention would be rejected by the world's public
13 opinion as well as the International Court of Justice.
14 However, when MANCHUKUO is recognized by JAPAN and
15 becomes an independent state and also JAPAN-MANCHUKUO
16 Alliance is concluded, according to the proposal now
17 under consultation, the point most disadvantageous
18 to JAPAN will be thereby almost removed. This, I
19 think, will be the most desirable result of our formal
20 recognition of MANCHUKUO and the conclusion of a
21 JAPAN-MANCHUKUO Alliance.

22 "It was almost an established view of a
23 large number of the people of the UNITED STATES and
24 other countries that our action in MANCHUKUO violated
25 the anti-war Pact and the Nine-Power Pact. However,

1 now that JAPAN has formally recognized MANCHUKUO
2 and entered into an alliance with her, JAPAN will be
3 able in future to assert that the independence of
4 MANCHUKUO was due to the disintegration of CHINA and
5 that the territorial integrity of the Republic of
6 CHINA was broken by none other than MANCHUKUO. This
7 will nullify the argument that JAPAN violated the
8 Nine-Power Pact. Now that JAPAN has concluded an
9 alliance with new MANCHUKUO for joint national de-
10 fense, I believe there will be no room for opposing
11 the stationing of Japanese troops in MANCHURIA, thus
12 making the League's past resolution a dead letter.

13 "No, supposing that the LYTTON'S Inquiry
14 Commission recognized CHINA's sovereignty over MAN-
15 CHURIA and recommended that CHINA allow autonomy to
16 MANCHUKUO, and supposing that the League adopted this
17 recommendation, JAPAN need not comment on it. It is
18 for MANCHUKUO herself to assert that an independent
19 state should not be placed under the sovereignty of
20 any other country. In regard to the connection be-
21 tween JAPAN and AMERICA and also other countries,
22 MANCHUKUO herself will bear the brunt of the attack,
23 or back up JAPAN to ease JAPAN's position. At any
24 rate, in consequence of the independence of MANCHU-
25 KUO, it has become unnecessary for the League of

1 Nations to deliberate on the Manchurian question
2 under Article XV of the League's covenant. It was
3 rather strange that the Manchurian and Mongolian
4 races had started no independence movement up to now.
5 It was a matter of course that MANCHUKUO has become
6 independent as soon as the old regime under CHANG
7 HSUCH-LIANG collapsed. After all, MANCHURIA be-
8 came a part of CHINA, when it was brought as a dowry
9 by AICHIN CHAEHLO, who subjugated CHINA proper.
10 Lord LYTTON's party also must have studied the his-
11 tory of MANCHURIA and MONGOLIA and it will not be
12 difficult to make them understand the creation of
13 MANCHUKUO as well as the problem of racial self-de-
14 termination. Consequently, I believe that through
15 the independence of MANCHUKUO, Japan's position has
16 been improved considerably in respect to her foreign
17 relations.

18 "In short, the present JAPAN MANCHUKUO
19 Treaty will prove effective in fully maintaining and
20 expanding our special rights in MANCHURIA and MONGO-
21 LIA on the one hand and in elevating, on the other
22 hand, JAPAN from a position of predicament full of
23 troubles at home and abroad to a triumphant one.
24 Here I feel that there is a bright future for the Man-
25 churian and Mongolian problem. With this in view,

1 I heartily endorse the exchange of Notes relative
2 to the JAPAN-MANCHUKUO Alliance. However, as has
3 just been stated by the chairman of the Judging Com-
4 mittee and Councillor OKADA, many difficulties still
5 lie ahead and I, therefore, hope the matter would be
6 carried to perfection by the authorities with further
7 cautious reparations.

8 "Chairman (KURATOMI): Before putting the
9 bill to a vote, I should like to call your attention,
10 for cautious sake, to the fact that, although the
11 bill discussed today is termed "Matter on the Signing
12 of JAPAN-MANCHUKUO Protocol," its contents are com-
13 posed of the Protocol and the Notes exchanged. As
14 there are no further speakers, I shall immediately
15 take a vote on the matter, omitting the Second Read-
16 ing, etc. The ayes are requested to stand up.

17 "(All rise up.)

18 "Chairman (KURATOMI): The bill has been
19 passed unanimously. Today's meeting is adjourned.

20 "His Majesty the Emperor withdrew to the in-
21 ner palace."
22
23
24
25

1 THE PRESIDENT: Captain Kleiman.

2 CAPTAIN KLEIMAN: May I interrupt the Court
3 for a moment? I wish at this time to ask the prose-
4 cution whether the OKADA mentioned on page 1 of this
5 exhibit which the prosecution has just read -- if his
6 first name is Keisuke who was a witness.

7 MR. SACKETT: My information is that the
8 OKADA who testified in this court was named OKADA,
9 Keisuke, and he was Navy Minister.

10 CAPTAIN KLEIMAN: And does the GOTO who ap-
11 pears on page 1 as Agricultural and Forestry Minister
12 -- was he Fumio GOTO who testified in this court?

13 MR. SACKETT: If your Honor please, I'm not
14 sure; and, if I'm going to testify, perhaps I should
15 take the witness stand.

16 CAPTAIN KLEIMAN: May it please the Tribunal,
17 at this time, this has occurred, I think, about two
18 times before where witnesses who were present at
19 meetings have appeared as witnesses in the courtroom
20 here. A phase has started, and, at the end, a docu-
21 ment is introduced in evidence and read. May I re-
22 quest of the Tribunal that, where witnesses are alive
23 and have attended various meetings, these exhibits be
24 introduced by words of the witnesses who were present.
25 There is no reason why this document could not have

1 been introduced through OKADA who was a witness here,
2 and through GOTO who was a witness here, and we would
3 then have an opportunity to find out what had fully
4 occurred before that meeting that passed on the par-
5 ticular part. As it is, if it please the President,
6 the burden has shifted on the defense to explain what
7 had occurred.

8 I can cite one previous instance: There had
9 been a document introduced about three or four weeks
10 ago with respect of various societies wherein some
11 of the names of these defendants appear as members
12 thereof. Testimony before that had been introduced
13 of various assassinations wherein was mentioned that
14 societies unnamed had been involved in the instiga-
15 tion of these assassinations. The burden of proof
16 was thrown on us to explain that the particular so-
17 ciety was not involved.

18 I submit, if it please the Tribunal, that
19 the best evidence in this case would have been the
20 introduction of this exhibit, document 947, through
21 a member who was present, if that member is alive and
22 is available; and two witnesses who have already ap-
23 peared here are alive and available.

24 If it please the Tribunal, this is not an
25 objection; it is just a request made by myself on

1 behalf of my defendant as to any future testimony or
2 exhibits that might be introduced.

3 THE PRESIDENT: No burden resting on the
4 prosecution has been shifted to the defense. That
5 is a misapprehension.

6 Proceed, Mr. Sackett.

7 MR. McCORMACK: If the Tribunal please, I'd
8 like to point out at this time for the purpose of
9 the record, inasmuch as the name MINAMI, No. 13, ap-
10 pears on the front page of this exhibit 241, that
11 that MINAMI is a Hiroshi MINAMI and not the accused
12 Jiro MINAMI.

13 MR. SACKETT: We next offer in evidence
14 IPS document No. 1046. This document contains three
15 telegrams, one from the Commander of the Kwantung
16 Army to the Vice-Minister of War and Vice-Chief of
17 the General Staff, dated November 13, '37, one to
18 the Vice-Chief of the General Staff from the Chief
19 of the General Staff of the Kwantung Army, May 14,
20 '38, and a telegram from the Vice-Minister of War
21 to the Chief of the General Staff of the Kwantung
22 Army, May 24, '38.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 1046 will receive exhibit No. 242.

(Whereupon, prosecution's exhibit
No. 242 was received in evidence.)

MR. SACKETT: In order that these might be
read chronologically, if the Court please, I would
like to read them in the reverse order in which they
appear, starting on page 2 and reading that telegram
first.

"Telegram from Commander of the Kwantung
Army to the Vice-Minister of War and Vice-Chief of
the General Staff.

"(Telegram No. 251 -- 'HWAH-SAN-MAN!')"

THE PRESIDENT: You might give us the dates.
I have asked you that before. It seems to be the
14th of May. Isn't it?

MR. SACKETT: I am sorry, your Honor. I
didn't get your point.

THE PRESIDENT: Well, you have "13th of
November," and that could be any year at all. It
may be 1938.

MR. SACKETT: If your Honor please, I can
explain it. I find that this is a mistake -- a
transposition. The year 1937 was omitted. I've
checked it, and it appears on the original. It is,
however, referred to in the next telegram by number
of telegram and shows that it precedes the telegram

1 in the middle, the second of the three.

2 THE PRESIDENT: 1937.

3 MR. SACKETT: (Reading)

4 "Despatched ----- 5:20 p.m. 13th of November

5 "Arrived ----- 6:45 p.m. 13th of November

6 "By the conclusion of the Anti-Comintern
7 Pact between Japan, Germany, and Italy, the obliga-
8 tion of our Empire in the defense against Bolshevism
9 in East Asia today has finally become more important.
10 With regard to our dealing with firm attitude of
11 positive opposition against the Nanking Government
12 that adopted pro-Comintern policy, I have previously
13 expressed our view (refer to Telegram No. 12, 'KWAN-
14 SAN-MAN'). I consider that, availing of this favor-
15 able opportunity under present circumstance, it would
16 be our very timely policy to make Manchukuo enter in
17 the said Pact between the said three countries there-
18 by further enlightening her thirty million people's
19 understanding of the defense against Communism, and
20 simultaneously imparting this upon the great masses
21 of China; and obtaining actual recognition of Man-
22 chukuo.

23 "We humbly present to you the above opinions.

24 "In case you have no special objection we
25 wish to let Manchukuo commence her diplomatic

1 activity."

2 We desire to read the second telegram on
3 page 1.

4 "Date -- 15 May, 1938

5 "Sent -- 8:08 pm -- 14th of May

6 "Arrived -- 8:55 pm -- 14th of May

7 "Telegram (confidential)

8 "TO : Vice-chief of the General Staff

9 "FROM: Chief of the General Staff of the
10 Kwantung Army

11 "With reference to Manchukuo's entry in the
12 Anti-Comintern Pact concluded between Japan, Germany
13 and Italy, the Army Commander had expressed his
14 opinion to the Chief of the General Staff and the
15 Minister of War through Telegram 'KWAN-SAN-MAN' No.
16 251 in November of last year. And now, the treaty
17 of amity between Manchukuo and Germany has been
18 signed, and the diplomatic relation between these two
19 countries has been established in due form. Therefore,
20 at this time, we wish to make Manchukuo enter as soon
21 as possible in the aforesaid Three Power Pact.

22 "Please send me your opinion at your earl-
23 iest opportunity."

24 The first telegram:

25 "Code telegram 'RIKU-MAN-MITSU' No. 80 from

1 the Vice-Minister of War to the Chief of the General
2 Staff of the Kwantung Army in reference to telegram
3 'KWAN-SAN-MAN' No. 715 Dated 24 May, 1938.

4 "Referring to Manchukuo's entry in the
5 Anti-Comintern Pact between Japan, Germany and
6 Italy, we inform you that as far as our country is
7 concerned there would be no objection as clearly stated
8 in the said pact. We are of the opinion that it is
9 best to take on the formality of 'Manchukuo request-
10 ing entry into the Pact on her own will and having
11 Japan assist her in that respect' by seizing a favor-
12 able opportunity soon."

13 We now offer in evidence IPS document No.
14 1054. This is a telegram from the Chief of Staff of
15 the Kwantung Army to the Vice-Minister of War and
16 the Vice-Chief of the Army General Staff. It is
17 dated December 16, 1940. It concerns the conclusion
18 of a trade pact between Japan and Manchukuo, China
19 and Germany.

20 THE PRESIDENT: We will recess now for
21 fifteen minutes.

22 (Whereupon, at 1045, a recess was
23 taken until 1100, after which the proceed-
24 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution No. 1054
5 will receive exhibit No. 243.

6 (Whereupon, prosecution's exhibit
7 No. 243 was received in evidence.)

8 MR. SACKETT: (Reading)

9 "MANCHURIAN ARMY CONFIDENTIAL DIARY (RIKU-
10 MAN-MITSU) Received by War Ministry.

11 "To Vice Minister of War, Vice-chief of
12 Army General Staff, from Chief of Staff, the Kwan-
13 tung Army.

14 "Dispatched 12:00, 16 Dec. 1940.

15 "Received the same day.

16 "Note: Kwantung crossed out in pencil,
17 North China substituted.

18 "According to a report from the ASIA DEVELOP-
19 ment BOARD (China Affairs Board), negotiations for
20 the conclusion of a trade pact between Japan, Man-
21 choukuo and China as one body and Germany shortly
22 will proceed at an early date. We should like to know
23 the truth about the matter.

24 "In view of the spirit of the conclusion of
25 the Tripartite Alliance, it is needless to state that

1 we agree with the object of such a pact, and the
2 strengthening of the national defence potentialities
3 with it, and we will not spare our efforts to export
4 raw materials to the value of about 20 or 30 million
5 yen to Germany from North China, but we should like
6 to request you:

7 "1. To make sure to provide North China
8 with return goods from Japan, in return for these
9 20 or 30 million yen of exports to Germany in order
10 not to delay the construction of North China.

11 "2. As regards the direct introduction of
12 German technical assistance into North China, we are
13 of the opinion that such proposal is not at all
14 necessary under the present circumstances. But in
15 any case the rolling stock will have a very impor-
16 tant bearing on the construction of North China. We
17 ask you to keep in close touch with us in case of
18 negotiations affecting military matters.

19 "Copy sent to:

20 "General Army Headquarters War Ministry

21 "General Army Staff Office

22 "Also sent to other offices for reference
23 only."

24 Next, we desire to offer in evidence IPS
25 document No. 641. This is a telegram from the Chief

1 of Staff of the Kwantung Army to the Vice Minister
2 of War, dated November 5, 1940, with reference to the
3 change of the Manchukuo Ambassador to Japan, and the
4 reply thereto.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution document
7 641 will receive exhibit No. 244.

8 (Whereupon, prosecution's exhibit
9 No. 244 was received in evidence.)

10 MR. SACKETT: In order that these telegrams
11 may be read chronologically, may it please the Court,
12 I should like to read the telegram on the lower half
13 of the page first, and then the telegram on the top
14 of the page. (Reading):

15 "Secret telegram dispatched at 20:50 and
16 received at 21:30 on 5 November.

17 "To Vice-War Minister.

18 "From the Chief of Staff of the Kwantung
19 Army.

20 "KAN-SAM-MAN Telegram No. 1,111.

21 "In view of the fact that the Manchoukuo
22 Ambassador to Japan, Yuan Chen-tse (Gen. Shin-taku)
23 has been in office for three and a half years already
24 and has rendered a great deal of meritorious service,
25 it is desired to call him back to Manchoukuo in the

1 near future and install him as Minister of Communi-
2 cations and appoint the present Minister of Communi-
3 cations, Li Shao-kang (Li Sho-ko) as his successor.

4 "Your opinion is solicited concerning this
5 change of the Ambassador. If there is no objection
6 among various circles interested, we should like to
7 ask for an AGUREMAN" -- agreement apparently --
8 "separately through the Foreign Office."

9 The answer appears on the first half of the
10 page. (Reading):

11 "Receipt Number: MAM-MITSU, No. 1,725.

12 "From Kwantung Army.

13 "Subject: Change of the Manchukuo Ambassa-
14 dor in Japan.

15 "Telegram from Vice-War Minister to the
16 Chief of Staff of the Kwantung Army (Coded and Person-
17 al).

18 "Telegram No. 150.

19 "Date: 8 Nov. 1940.

20 "We have no objection in the matter of the
21 change of the Manchukuo Ambassador in Japan, accord-
22 ing to KAN-SAM-MAN telegram No. 1,111."

23 If the Court please, Mr. Darsey will now
24 proceed for the prosecution.

25 THE PRESIDENT: Mr. Darsey.

MORISHIMA

DIRECT

1 MR. DARSEY: Mr. President, I would like
2 to call as the next witness, MORISHIMA, Morito.

3 - - -

4 M O R I T O M O R I S H I M A , called as a witness
5 on behalf of the prosecution, being first duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. DARSEY:

9 Q Will you state your full name, please?

10 A MORISHIMA, Morito.

11 Q Do you have any preference as to the lan-
12 guage to be employed in the development of your
13 testimony?

14 A I prefer Japanese.

15 Q What is the basis of that preference?

16 A I feel that in order to testify on impor-
17 tant matters Japanese would be more accurate.

18 Q Did you make an affidavit to use in this case?

19 A I did.

20 MR. LEVIN: Mr. President.

21 THE PRESIDENT: Mr. Levin.

22 Q I show you IPS document No. 2263 and ask you
23 to state whether or not that is the affidavit that you
24 executed?

25 A This is my affidavit, and I wish to make one

MORISHIMA

DIRECT

1 correction.

2 Q What is it?

3 A On page 4, the 4th line from the top, it is
4 stated that Captain NAKAMURA made a tour of inner-
5 Mongolia for the Kwantung Army. I wish to change
6 "for the Kwantung Army" to "for the Army."

7 Q Aside from that correction, are the state-
8 ments contained in the affidavit true?

9 A Yes.

10 MR. DARSEY: Mr. President, on the Court's
11 previous rulings, I desire to offer this witness's
12 direct testimony in the form of an affidavit.

13 MR. LEVIN: Mr. President.

14 THE PRESIDENT: Mr. Levin.

15 MR. LEVIN: We object to the examination of
16 this witness, first, in Japanese -- that he be per-
17 mitted to testify in Japanese, and, second, we ob-
18 ject to the testimony by way of affidavit. I make
19 this objection on behalf of all Japanese counsel and
20 all American counsel. We believe it is greatly in the
21 interests of a fair trial, first, that the witness
22 shall testify in English. He speaks, reads, and
23 understands the English language, and has lived in the
24 City of New York for many years. In addition to that,
25 we object to the use -- strenuously object to the use

MORISHIMA

DIRECT

1 of this affidavit because the mere saving of time
2 should not be a primary consideration in the offer-
3 ing of testimony. We of the defense are as anxious
4 as the Tribunal and as the prosecution to save all
5 the time that we can, but it strikes us that the
6 mere saving of a day, a week, or a month is not
7 nearly as important as that a witness shall be
8 subjected to the question and answer method, which
9 is the method by which we conduct our proceedings
10 as a rule. The testimony by way of affidavit is in
11 the nature of synthetic testimony; that is, it is
12 prepared under the guidance of either party who is
13 interested in presenting the evidence in the best
14 light, so far as the aspects of the case are con-
15 cerned. Further, the desire of a witness to testify
16 in a particular language is not controlling at all.
17 The question involved is: Can he understand the
18 questions that are put to him in the prevailing
19 language which is used, and can he answer? We submit,
20 Mr. President, that in all fairness and in considera-
21 tion of the important issues that are involved, that
22 a witness as important as this, and who can speak,
23 read, and understand the English language -- has
24 lived in the United States -- should testify in
25 English, and we should have the opportunity of having

MORISHIMA

DIRECT

1 questions directed to him under the scrutiny of
2 counsel, and should be cross-examined on his answers
3 given pursuant to those questions.

4 THE PRESIDENT: We have already decided that
5 a witness may testify in his own language, but whether
6 this affidavit should be received or not is a question
7 which I will refer to my colleagues.

8 We have decided to receive the affidavit.

9 CLERK OF THE COURT: Prosecution's document
10 No. 2263 will receive exhibit No. 245.

11 (Whereupon, prosecution's exhibit
12 No. 245 was received in evidence.)

13 MR. LEVIN: May we take the exception,
14 Mr. President, to the ruling of the Court, and at
15 this time it might be proper for me to inquire, in
16 view of the question that has been raised by other
17 defense counsel, whether it is understood that when
18 the rulings by the Court are adverse to an objection
19 made by us, whether we have an exception as a matter
20 of course. I make this inquiry so that we shall not
21 take up the time of the Court in asking for exceptions.

22 THE PRESIDENT: The reviewing authority, with
23 his very limited power to review, probably will not
24 stick at an exception or the absence of one. To
25 save time, we will assume that every objection by

MORISHIMA

DIRECT

1 the defense which is overruled is followed by an
2 application for an exception, which application
3 is granted.

4 MR. LEVIN: That is satisfactory, your Honor.

5 MR. DARSEY: (Reading)

6 "I, MORISHIMA, Morito, make oath and say
7 as follows:

8 "I am 50 years old, having been born in
9 the City of Kanazawa on February 16, 1896.

10 "I speak, read and understand the English
11 language.

12 "In September 1928, I was sent to Mukden to
13 serve in the capacity of consul as First Assistant to
14 Consul General HAYASHI, Kyujiro. I served in this
15 office until December 1932, during which period I
16 served as Acting Consul General on the occasions when
17 the Consul General was out of the jurisdiction; es-
18 pecially did I serve as Acting Consul General from
19 December 1931 to December, 1932, the Consul General
20 having been recalled to Japan at that time on other
21 business.

22 "As the first Assistant to the Consul General,
23 my duties were largely of an executive nature. The
24 office of the Consul General was concerned with
25 matters relating to Chinese affairs, particularly

MORISHIMA

DIRECT

1 Japan's interests in Manchuria, and all political
2 matters relating to foreign countries, and arranging for
3 the protection of Japanese nationals in peace time. It
4 was the particular duty and obligation of our office
5 to keep posted on current trends and developments which
6 might adversely affect the political policies of the
7 Japanese Government; to anticipate such trends and
8 developments and to currently report conclusions
9 in these respects to the Japanese Foreign Office. In
10 order effectively to perform these duties and functions,
11 the Consul General's office availed itself of all
12 accessible channels of information. Such channels of
13 information consisted among others of the Consular
14 Police, several hundred in number, who were stationed
15 throughout the jurisdiction of our Mukden office;
16 the officials of the South Manchurian Railway; and the
17 Kwantung Government; the officers in the headquarters
18 of the Special Mission of the Army located in Mukden;
19 the Chinese representative in the three Eastern Provinces
20 comprising Manchuria; Japanese nationals located in
21 Manchuria; and many other such sources of information.
22 It was the duty of the Consular Police to make daily
23 reports to our office of any unusual happenings, events
24 or information as to trends and developments. This
25 they did regularly. I, personally, conducted conferences

MORISHIMA

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1 daily with such of the aforementioned officials and
2 officers as circumstances and conditions suggested
3 the advisability of.
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MORISHIMA

DIRECT

1 "In the performance and discharge of the
2 duties and functions of our office, we were required
3 to and did avail ourselves of the aforementioned
4 channels of information. The office of the Consul
5 General took appropriate official action predicated
6 upon the information so acquired and received and
7 made many reports to the Japanese Government in con-
8 nection therewith. It was the duty and responsibility
9 of our office to draw conclusions from information so
10 obtained and to advise the Japanese Government as to
11 such trends and developments which might involve Japan's
12 political policies, as such information indicated. This,
13 we endeavored to do as effectively as possible.

15 "In 1928 and 1929, the headquarters of the
16 Kwantung Army was located normally at Port Arthur and
17 the Commander of that Army was Lt. General MURAOKA.
18 Major-General HATA, Shinji, was Chief of the Special
19 Mission of the Army, with headquarters at Mukden and
20 Major MORIOKA was assistant to the Chief of that
21 Mission. These two officers were succeeded by Major-
22 General SUZUKI, Yoshimitsu and Major HANAYA, Tadashi.
23 Later, Major-General SUZUKI was succeeded by Major-
24 General DOIHARA, Kenji. These were the officers whom
25 I normally contacted in the headquarters of the Army
Special Mission in Mukden when the desirability of

MORISHIMA

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2 duties and functions of our office, we were required
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24 General DOIHARA, Kenji. These were the officers whom
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Special Mission in Mukden when the desirability of

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1 conferences with the military was suggested. Occasion-
2 ally, it became desirable for me to visit the General
3 Headquarters of the Kwantung Army in Port Arthur to
4 confer about special matters. Also, I often conferred
5 with the Governor-General of the Kwantung Province and
6 other officials in that office.

7 "When Premier TANAKA came into office, he
8 announced a more positive policy toward Manchuria
9 than had been followed in the predecessor Cabinet.
10 This policy placed the greatest importance on the
11 maintenance of peace and order throughout the whole of
12 Manchuria. It was the first time that Japan had defin-
13 itely asserted that she would take upon herself the
14 responsibility and task of preserving peace and order
15 in Manchuria. The positive policy also resulted in
16 troops being sent into China proper; that is, Teinan,
17 on two occasions; namely, May 1927 and April 1928, to
18 insure the safety and protect the rights of Japanese
19 nationals there. The sending of troops into China
20 proper in April 1928 had the effect of deterring the
21 advance of the Chiang-kai-Shek armies toward Peiping
22 and Tientsin.

23
24 "At this time, Marshal Chang Tso-lin was
25 marshal of Manchuria. In the administration of this
positive policy, Premier TANAKA was lending support

MORISHIMA

DIRECT

1 to and collaborating with Chang Tso-lin. It was the
2 policy of the TANAKA Government to endeavor to promote
3 and expand Japan's interests in Manchuria through colla-
4 boration and negotiation with Chang Tso-lin. This
5 policy of collaboration and negotiation with Chang
6 Tso-lin met with strong disapproval on the part of a
7 group and clique of officers in the Kwantung Army which
8 at that time was led by Colonel KAWAMOTO Taisaku.
9 There were other younger officers of the Kwantung
10 Army associated in this group and clique whose names
11 I do not now recall. This element in the Kwantung
12 Army felt that the Government should discontinue
13 collaboration and negotiation with constituted authori-
14 ties in Manchuria and should employ force to preserve
15 and promote Japan's interest there.

16 "At this time, Chang Tso-lin had ambitions to
17 establish his leadership in China proper and as Grand
18 Marshall of his armies had moved his headquarters to
19 Peiping. This met with the staunch disapproval of
20 Premier TANAKA who consistently advised Chang Tso-lin
21 that he should abandon his ambitions in China proper,
22 return to Manchuria and concern himself solely with
23 maintaining his leadership there.

24 "Chang Tso-lin ignored such advice and requests
25 on the part of Premier TANAKA until he suffered defeat

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1 in the summer of 1928 when the Southern Army of Chiang
2 Kai-Shek was making a strong advance into North China.
3 At this time, Chang Tso-lin was compelled by military
4 circumstances to return to Manchuria. Chang Tso-lin
5 departed from North China for Mukden in the first
6 week of June 1928. As the train on which he was
7 traveling approached Mukden, he was killed by an ex-
8 plosion which wrecked his train. This explosion was
9 planned and brought about by the element of the Kwantung
10 Army which was dissatisfied with TANAKA's policy of
11 collaboration with Chang-Tso-lin. This murder of
12 Chang Tso-lin created quite a crisis in the TANAKA
13 cabinet and ultimately resulted in its fall in 1929.

14 " From the date of the fall of the TANAKA Cabinet
15 until the late summer of 1931, the influence of this
16 element of the Kwantung Army in governmental policies
17 grew progressively stronger. During this period,
18 Colonel ITAGAKI, Seishiro, Lt. Colonel ISHIHARA, Kanji,
19 and Major HANAYA are among those in the Kwantung Army
20 who became definitely identified with the leadership in
21 this group. This group and clique of officers in the
22 Kwantung Army in this period were of the strong opinion
23 that the use of armed forces was necessary to preserve
24 and project Japan's interests in Manchuria. They seemed
25 to want to occupy it and to establish a government there

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1 separate from China proper and which would be sub-
2 servient to Japan. During this period many incidents
3 occurred which might be attributed to anti-Japanese
4 feeling prevailing in Manchuria and the policy of re-
5 storation of national rights under the leadership of
6 Chang Hsueh-Liang. The Consulate made the greatest
7 efforts to settle these incidents by negotiation and
8 peaceful means so that they might not be used as pre-
9 texts for the use of force. However, the determination
10 on the part of the group and clique in the Army to
11 employ force in Manchuria grew progressively stronger
12 throughout the summer of 1931 and it became more and
13 more difficult for the office of the Consul General
14 and the Government to keep the situation in hand.
15 By late summer it became apparent to all concerned
16 that it was only a question of days until the military
17 would be on the move in Manchuria. In the latter part
18 of August and until the middle of September, the Consular
19 office was seriously concerned with the adjustment and
20 settlement of the NAKAMURA affair. This involved the
21 killing of NAKAMURA, a Japanese officer who allegedly
22 was on an investigation tour in inner-Mongolia for the
23 Kwantung Army. He had obtained a passport from the
24 Chinese under the false representation that he was
25 an agricultural scientist who wanted to conduct research

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1 in this field. While engaged in his real mission, his
2 true identity became known and he was killed by a number
3 of soldiers belonging to the regular Army of Chang Hsueh-
4 Liang. On the afternoon of September 18, 1931, nego-
5 tiations with respect to adjustment and settlement
6 of this affair were in progress between the Consulate
7 and the Chinese representatives. A further conference
8 in the Consulate was adjourned at about eight o'clock
9 in the evening because it had been concluded that
10 since a member of the military was involved, it would
11 be necessary to confer with appropriate representatives
12 of the Army before any further representations should
13 be made to the Chinese officials.

14 "Upon the conclusion of this conference at
15 8:00 P.M., I was delegated the responsibility to arrange
16 for the attendance of appropriate military representa-
17 tives at a further conference which was to be held
18 later in the evening. At this time, I endeavored
19 to contact the responsible officers of the Special
20 Mission of the Army in Mukden in order to arrange for
21 them to attend this conference. The officers I en-
22 deavored particularly to contact were Colonel DOIHARA,
23 Chief of the Special Mission, and Major HANAYA, the
24 Assistant Chief, who were in charge of the Headquarters
25 office. I was unable to locate either of these officers

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1 or any other responsible military officer. After I
2 had sought to locate these officers at their respective
3 offices, billets, and the usual hotels, restaurants and
4 other places which they frequented, I so reported to
5 the Consulate and retired to my personal quarters
6 adjacent to the Consulate.

7 "Earlier in the afternoon of September 18, I
8 had received a report from the Consular Police to the
9 effect that a citizen who was traveling on the train
10 from Antung to Mukden had recognized General TATEKAWA,
11 Yoshitsugi who was dressed in civilian clothing and
12 who was traveling from Tokyo to Mukden. This citizen
13 had sought to have General TATEKAWA acknowledge his
14 identity but was evaded. It seemed strange to me at
15 the time that the Consulate should not have been ad-
16 vised of General TATEKAWA's special mission to Mukden.

17 "My inability to locate any of the responsible
18 military officers at 9:00 o'clock in the evening of
19 September 18, coupled with the report with respect to
20 General TATEKAWA traveling in civilian clothes to
21 Mukden created quite a bit of apprehension in my mind
22 and I so reported to the Consul.

23 "Earlier in the summer, I had learned that
24 the Army had moved a large gun from Hai-chang, the
25 headquarters of the Artillery Regiment to the Infantry

MORISHIMA

DIRECT

1 Barracks in Mukden. I inquired of the Army about the
2 significance of this movement but only received evasive
3 answers. Also, I had received many reports that the
4 Army was planning unusual military maneuvers; partic-
5 ularly had I previously learned that the Kwantung Army
6 in Fu-shun the important coal mining district, had planned
7 a maneuver which contemplated the occupation of Mukden,
8 leaving Fu-shun at 11:30 P.M. the night of September 18.

9 "All of such reports had served to create an
10 atmosphere of tenseness in the Consulate. It was
11 apparent to me that some unusual military activity
12 was in the making.

13 "By this time, Lt. Colonel ISIHARA had become
14 an assistant on Colonel ITAGAKI's staff and I from time
15 to time had occasion to speak with him. I learned
16 that he was supporting Colonel ITAGAKI's philosophy
17 that force should be employed to occupy Manchuria.

18 "I was in my personal quarters about 10:30
19 P.M., September 18, 1931, when I received a telephone
20 call from the Army Special Mission advising me that an
21 explosion had occurred on the South Manchurian Railway
22 and that I should come over immediately to the Military
23 Special Mission Headquarters. I arrived there about
24 10:45 P.M. and met Colonel ITAGAKI, Seishiro, Major
25 HANAYA, and some other officers whose names I do not

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1 recall. Colonel ITAGAKI said to me that members of the
2 regular Chinese Army had exploded the South Manchuria
3 Railway; that this constituted a serious violation of
4 important Japanese rights; that Japan must take appropriate
5 defense measures through the use of military force;
6 and that general orders had already been issued to this
7 effect to the Army. I tried to reason with him that we
8 should resort to peaceful negotiations in an effort to
9 adjust the matter and that I believed that it could be
10 satisfactorily settled in this manner. Colonel ITAGAKI
11 then chastised me and wanted to know if the office of
12 the Consul General intended to interfere with the
13 right of military command. I insisted that there was
14 no question involved of interference with the right of
15 military command but rather that I was certain the matter
16 could be adjusted amicably through normal negotiations
17 and that the latter course would be advisable
18 from the viewpoint of the interests of the Japanese
19 Government. At this point in the conversation, Major
20 HANAYA unsheathed his sword in an angry gesture and
21 stated that if I insisted upon interference with the
22 right of military command, I should be prepared to suffer
23 the consequences. He stated further that he would
24 kill anyone who endeavored to so interfere. This out-
25 burst on the part of Major HANAYA broke up the conver-

MORISHIMA

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1 sation and I returned to my headquarters to make a
2 full report, which I did. By the time I reached my
3 headquarters, Consul General HAYASHI had returned from
4 a visit with an acquaintance and I reported to him the
5 developments of the evening in detail.

6 "Upon receipt of my report, the Consul General
7 talked by phone a number of times during the night of
8 September 18 and the early morning of the 19th with
9 Colonel ITAGAKI in an effort to persuade him to cease
10 the fighting and to permit the Consulate to endeavor
11 to settle the matter through peaceful negotiations.
12 Colonel ITAGAKI remained defiant and consistently
13 informed the Consul General that he should cease inter-
14 ference with the right of the military command; that
15 general orders had been issued to the Army and that
16 the Army would proceed as planned. Throughout the
17 night of September 18 we received numerous representa-
18 tions on the part of the Supreme Advisor for Chang
19 Hsueh-Liang, then Marshal of Manchuria, that the
20 Chinese were proceeding on a policy of non-resistance
21 and implored the office of the Consul General to per-
22 suade the Japanese Army to cease attacks and to resort
23 to peaceful negotiations. All such representations
24 were communicated to the military to no avail and the
25 occupation of Mukden continued. On the day of September

MORISHIMA

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19, in my continued efforts to persuade the Army to
cease military activities, I visited the headquarters
of the Kwantung Army several times and conferred with
officers in the Kwantung Army, the headquarters of the
Kwantung Army having been moved by this time from Port
Arthur to Mukden. On one of these visits, I observed
in the headquarters of the Kwantung Army, General
TATEKAWA who was dressed in civilian clothes. At this
time, General TATEKAWA held the office of Chief of one
of the departments of the General Staff in Tokyo and
I could not understand why he should be in Mukden dressed
in civilian attire.

"Under the general orders which were issued
on the night of September 18, all of the Japanese
armies in Manchuria came into operation. The Korean
Army which was stationed on the border crossed the
Yalu River and came over to participate in the activi-
ties. Despite all efforts to control the situation,
the Army continued with its occupation of Manchuria
which was consolidated by the spring of 1932. In March
of 1932, a puppet government was established with Pu-yi
as its head. There was no popular movement in Man-
churia for the establishment of any independent
government. This movement was sponsored and inspired
by the Kwantung Army and the Self-Government Guiding

MORISHIMA

DIRECT

1 Board, which was created by the Kwantung Army. All
2 Of the important and controlling positions in the puppet
3 government were filled by Japanese selected by the
4 Kwantung Army.

5 "Upon the establishment of the puppet govern-
6 ment, the Province of Jehol in Inner-Mongolia was
7 declared to be within its sphere of influence. This
8 move proved ineffectual because it did not have the
9 support of the Government nor the people of Jehol.
10 When the Kwantung Army realized this situation, and the
11 continued existence of the exiled Government of Chang
12 Hsueh-Liang in Jehol, the Army proceeded to occupy
13 Jehol and make it a part of the puppet regime by force.
14 This puppet government continued to be dominated and
15 controlled by the Kwantung Army until 1945. Japan
16 officially recognized the independence of this Govern-
17 ment in September 1932. This gesture in nowise
18 altered the control and domination of the Government
19 by the Kwantung Army.

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21 /s/ MORISHIMA, Morito
22 MORISHIMA, Morito"
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MORISHIMA

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1 MR. DARSEY: You may cross-examine.

2 MR. YAMADA: I am counsel for the defendant
3 ITAGAKI, YAMADA, Hanzo.

4 CROSS - EXAMINATION

5 BY MR. YAMADA:

6 Q Now, Mr. Witness, where were you in June,
7 1928? That was at the time Marshal Chang Tso-lin
8 was killed as a result of the explosion.

9 A At that time I was still in Tokyo although
10 I had been already appointed Consul at Fengtien be-
11 cause of the illness of my accomplice.

12 THE MONITOR: Correction: "Mukden" instead
13 of "Fengtien."

14 Q In your testimony concerning the death of
15 Chang Tso-lin and the acts of some of the officers
16 in the Kwantung Army, where did you get your knowledge
17 from? That is, you have stated that you are not
18 there yourself. Therefore, from what source did you
19 get those information?

20 A The explosion incident concerning Chang
21 Tso-lin was a very important matter for the Consul
22 at Mukden. As a result, after my arrival at Mukden,
23 as I have written in the first part of my affidavit,
24 I heard from various -- very wide sources concerning
25 this Incident.

MORISHIMA

CROSS

1 Q **Then**, it amounts to a hearsay which you
2 obtained after the happening of the Incident, didn't
3 it?

4 A I heard from two exceedingly accurate sources.

5 Q What do you mean by "accurate sources?"
6 Please state it.

7 A The first I heard this directly from Captain
8 TOMIYA who participated in this Incident. Second,
9 I heard the same from very influential politician
10 in Chilin.

11 THE MONITOR: "Chinese politician."

12 Q What I wanted to ask you is how you came
13 to know of the existence of a section of officers
14 within the Kwantung Army who was opposed to TANAKA's
15 policy.

16 THE MONITOR: "TANAKA Cabinet's policy."

17 A I did not hear this at the time of the
18 explosion incident but after my arrival in Mukden
19 I had several meetings with Colonel KOMOTO and during
20 these conversations I learned of this.

21 Q Next, according to your affidavit, between
22 the time TANAKA Cabinet resigned up to the summer of
23 1931 there were such officers as ITAGAKI, HANAYA
24 and ISHIHARA among those who were recognized as
25 positive members of positive faction in the Kwantung

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CROSS

1 Army. Now, Mr. Witness, did you meet ITAGAKI prior
2 to the Incident in Mukden?

3 A Before Colonel ITAGAKI was a senior officer
4 in the Kwantung Army, he served as a Regimental
5 Commander at Mukden. Therefore, I had several oc-
6 casions to meet him there.

7 THE PRESIDENT: Would counsel endeavor to
8 avoid introductory statements which are quite un-
9 necessary.

10 MR. YAMADA: Yes, I understand.

11 Q Have you personally heard the so-called
12 "positive opinion" of ITAGAKI?

13 A Yes, I have.

14 Q What was it?

15 A In order to execute the positive policy
16 toward Manchuria, a very positive policy must be taken.

17 Q You have stated, you state in your testimony
18 in your affidavit also that the Consular authorities
19 at that time were endeavoring to solve the pending
20 questions with peaceful means. However, the intention
21 of the Army to use armed force became stronger since
22 summer, 1931, and because of that, the situation --
23 it became difficult for the Consular and Government
24 authorities to settle -- to save the situation peace-
25 fully. However, Mr. Witness, I should like to ask

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CROSS

1 you whether the Chinese side also showed at that time
2 the signs of resorting to armed force?

3 A I do not know. I cannot say whether the
4 Chinese intended to resort to arms. However, I can
5 say that the anti-Japanese movement at that time was
6 very strong.

7 Q You have stated that, although you tried
8 to settle the matter through peaceful channels, in
9 spite of your efforts to settle the matter through
10 peaceful channels, in September, 1931, that was at
11 the time of the outbreak of the incident, there were
12 many pending questions. Who were responsible for
13 those pending questions?

14 A To some extent, I can say that the attitude
15 of the Chinese may be responsible for this. On the
16 other hand, I can also say that the Japanese policy
17 at that time should assume some of the responsibility.

18 THE MONITOR: Correction: "attitude of the
19 Chinese toward Japan."

20 A (Continuing): With respect to Japanese
21 policy, I wish to say it is the Japanese policy of
22 the Central Government.

23 Q You have conducted, you conducted the
24 negotiations yourself so you should know well. Where
25 was the real cause of the failure of the settlement

MORISHIMA

CROSS

1 of the matter? Was it because Japanese side lacked
2 in enthusiasm in settling the matter and in winding
3 up the negotiations peacefully or was it because
4 of the lack of sincerity on the part of China?

5 A I think the greater responsibility lies upon
6 the Chinese side.

7 THE PRESIDENT: Before we recess, I would
8 ask counsel to shorten his questions. He must realize
9 that he is giving the translators the greatest dif-
10 ficulty.

11 We will recess now until half-past one.

12 (Whereupon, at 1200, a recess was taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

MORITO MORISHIMA, called as a witness on behalf of the prosecution, resumed the stand and testified as follows:

BY MR. YAMADA (Continued):

Q Immediately before the Mukden Incident there were several hundred cases which were not settled. Would you please tell us in detail Chang Hsueh-liang's general attitude toward Japan?

MONITOR: Correction. Will you tell us in detail the attitude of the regime headed by Chang Hsueh-liang toward Japan?

MR. DARSEV: Mr. President, I have no objection to the development of these facts so far as substance is concerned, but it appears to me that it would be a waste of time for the Tribunal because under no circumstances would anti-Japanese statements constitute any justification for aggression.

THE PRESIDENT: It is beyond the scope of the examination in chief and it is not related to it

MORISHIMA

CROSS

1 in any way. The question is disallowed.

2 Q Mr. Witness, do you know the numbers of the
3 Kwantung Army who were in Mukden and those of the
4 Chinese forces?

5 A I knew that there was a great difference in
6 numbers between those of the Japanese and of the
7 Chinese, but I am not aware of the exact details.

8 THE PRESIDENT: That is common ground. There
9 was a big difference in favor of the Chinese. I
10 don't think you should bother asking questions like
11 that.

12 Q Concerning the killing of Captain NAKAMURA,
13 was it not said at first that it was not done by
14 Chinese regular troops, but that later the Chinese
15 admitted that it had been done -- he had been killed
16 by Chinese regulars?

17 MONITOR: At first Chinese claimed that
18 regular troops under Chang Tso-lin committed the act
19 and later Chinese admitted that it was done by -- no,
20 excuse me. The Chinese at first claimed that it was
21 not the act committed by the regular troops under
22 Chang Hsueh-liang and later had to admit that it was
23 done by regular troops under Chang Tso-lin. Was it
24 not so?

25 A In the end they did admit that Captain

MORISHIMA

CROSS

1 NAKAMURA had been killed by soldiers belonging to
2 the regular army of Chang Tso-lin, but at first they
3 were non-committal; they didn't say he was killed or
4 not killed.

5 Q Do not you know that the Chinese admitted
6 that the author of that murder was Hanyupu?

7 MONITOR: Correction: Hanyupu, the regimental
8 commander.

9 A I do not now recollect definitely whether
10 he was killed by Hanyupu or not, but I do remember that
11 he had been killed by soldiers under the command of
12 the above mentioned person.

13 Q When you were called to the Special Service
14 Mission at Mukden on the night of 18 September, what
15 were the reasons given to you by the Kwantung Army
16 officers for the Lukuochiao Incident?

17 A All I heard was, as I have stated in my
18 affidavit, Colonel ITAGAKI told me that the Chinese
19 side had blown up the South Manchurian Railway.

20 Q Did they not say that the Chinese had begun
21 to fire?

22 A No.

23 Q You state in your affidavit that on the
24 night of the 18th of August we received representa-
25 tions on the part of the Supreme Advisor for Chang

MORISHIMA

CROSS

1 Hsueh-Liang that the Chinese were proceeding on a
2 policy of non-resistance and asking to persuade the
3 Japanese army to cease attacks.

4 MONITOR: Correction: on the night of the
5 18th of August the Japanese were approached by a
6 certain Supreme Advisor of Chang Hsueh-Liang with a
7 request for a cessation or termination of hostilities.

8 Q (Continued) Who was that high advisor?

9 A I believe instead of August you mean September.
10 The highest advisor of whom you just spoke is Dr.
11 Chaohsinpo, a graduate of Meiji University in Japan.

12 Q Were these requests made by telephone, and, if
13 they were, did you personally hear these requests?

14 A They were by telephone. I received those
15 messages and also Consul General HAYASHI received
16 them.

17 Q You said that the Chinese -- from the Chinese
18 side efforts had been made to stop the fighting and
19 that you had transmitted those to the Kwantung Army
20 officers, but that these had refused it. What were
21 the reasons for this refusal?

22 A They replied that serious Japanese rights had
23 been violated by the Chinese side and that the army
24 had acted in self-defense and that once the army had
25 begun its actions and, once the Imperial command had

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1 been given, such action could not be withdrawn.

2 Q A demand for the suspension of hostilities
3 is a very important matter, and it seems to me that
4 doing this by telephone is rather not taking the
5 proper forms. What is your opinion about this?

6 THE PRESIDENT: There is no need to answer
7 that question.

8 Q You stated in your affidavit that on the
9 night of September 18 until the morning you telephoned
10 several times to Colonel ITAGAKI about ceasing the
11 hostilities but that his attitude had been extremely
12 arrogant. How can you tell by telephone that his
13 attitude was arrogant?

14 THE PRESIDENT: It is unnecessary to answer
15 that question. Arrogance can be displayed over a
16 telephone.

17 Q At that time many false rumors were being
18 spread and the consulate must certainly have received
19 many reports. In these are there any which now you
20 consider as being false?

21 A Generally speaking, there is no information
22 I received at the time which I now believe to be
23 false except for one instance.

24 Q At that time Consul General HAYASHI sent many
25 reports to the Foreign Minister by telegram and by

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1 letter. I have heard that after the Incident,
2 around the 22nd or 23rd of September, the Consul
3 General sent a report saying that some of the facts
4 were incorrect and retracting them. Have you heard
5 about that?

6 A I don't know what promises Consul General
7 HAYASHI may have made, but as far as I am concerned
8 no telegram of retraction was ever sent.

9 C Do you know that before the Empire of
10 Manchukuo was founded ITAGAKI -- that an opinion was
11 forwarded to the later Foreign Minister, Mr. Hsieh
12 Chieh-shih, that the proclamation of foundation of the
13 Empire should be made before the official recognition
14 of the regent?

15 MONITOR: Correction: before the ceremony
16 of inauguration of the regent. Correction again:
17 advice was made to Mr. Hsieh Chieh-shih, who was to
18 become Foreign Minister later, before the foundation
19 of Manchukuo that the proclamation of the foundation
20 of the state be made before the inauguration of the
21 regent. And this advice was transmitted through
22 ITAGAKI. Are you aware of that?

23 MR. DARSEY: Mr. President, I object to the
24 question.

25 THE PRESIDENT: Let it be translated.

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1 A I am not aware of that. I do not know of
2 any such thing.

3 THE PRESIDENT: Now you can state your
4 objection if you wish. We want some sort of order
5 kept here. The counsel should realize that his ques-
6 tions, his lengthy questions, his unnecessarily
7 lengthy questions, are occasioning great difficulty.

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1 Q Are you aware that the Japanese residents in
2 Manchuria at that time, feeling that their lives and
3 property were in danger, asked the protection of the
4 Kwantung Army?

5 A As far as Koreans living in far-off districts
6 were concerned, they were oppressed rather severely
7 and there may have been such desires on the part of
8 Koreans. But as far as settlers from Japan proper
9 were concerned, there were no such desires.

10 Q Do you know that the Foreign Office issued a
11 declaration that the Manchurian Incident was based on
12 self-defense?

13 A I do not know if the Foreign Office issued an
14 official statement to that effect or no. That is,
15 however, the attitude which the Foreign Office took
16 in explaining the matter to foreign countries.

17 THE PRESIDENT: Mr. Furness.

18 CROSS-EXAMINATION (Continued)

19 BY MR. FURNESS:

20 Q Mr. MORISHIMA, on page 3 of your affidavit
21 you stated that many **incidents** occurred which might be
22 attributed to anti-Japanese feeling in Manchuria.
23 What was this anti-Japanese feeling? How did it mani-
24 fest itself?

25 MR. DARSEY: Mr. President, I object to the

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1 question as wholly irrelevant and immaterial.

2 THE PRESIDENT: I cannot see the passage in
3 the affidavit to which he refers.

4 MR. FURNESS: It is in the last paragraph of
5 page 3, the last full sentence. "During this period,
6 many incidents occurred which might be attributed to
7 anti-Japanese feeling prevailing in Manchuria . . ."

8 THE PRESIDENT: Well, what is the question on
9 that?

10 MR. FURNESS: Will the reporter repeat the
11 question, please?

12 (Whereupon, the question was read by
13 the official court reporter as follows:

14 "Q Mr. MORISHIMA, on page 3 of your
15 affidavit you stated that many incidents
16 occurred which might be attributed to anti-
17 Japanese feeling in Manchuria. What was this
18 anti-Japanese feeling? How did it manifest
19 itself?")

20 A After the Chang Hsueh-Liang regime merged with
21 the Kuoming Chinese nationalist government, a movement
22 for the recovery of Chinese national rights gained in
23 strength and, for instance, a demand for the recovery
24 of the South Manchurian Railway and even of what would
25 amount to overthrowing fundamentally Japan's position

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1 in Manchuria. Such demands began to be made.

2 Q It was, was it not, a part of a general anti-
3 Japanese feeling throughout China?

4 A Certainly it is a part of a general anti-
5 Japanese feeling in China. But this feeling was
6 especially strong in the three eastern provinces which
7 comprise Manchuria.

8 Q And it manifested itself, did it not, in
9 violations of treaty rights acquired by Japan?

10 A Yes, as you say.

11 Q Now, on page 2 of your affidavit you state
12 that Japanese troops were sent to Teinan, T-e-i-n-a-n,
13 on two occasions, in May, 1927, and April, 1928. You
14 mean, do you not, Tsinan, T-s-i-n-a-n?

15 A Yes, Tsinan.

16 Q And it was necessary to send them in order to
17 insure the safety and protect the rights of Japanese
18 nationals in and near that city?

19 A Yes.

20 Q As soon as that mission was accomplished, those
21 troops were withdrawn, were they not?

22 A In connection with this withdrawal, several
23 serious problems arose, and diplomatic negotiations
24 concerning these were carried on for quite a long time.

25 Q Could you tell us whether the accused in this

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1 case, Mr. SHIGEMITSU, had a prominent part in con-
2 ducting those negotiations?

3 A Mr. SHIGEMITSU, first as First Secretary in
4 Peking, later as Councillor there, and still later as
5 Consul-General at Shanghai, served in various parts of
6 China and played a prominent part in these difficult
7 negotiations, helping Minister YOSHIZAWA to the best
8 of his ability and showing the utmost patience.

9 Q Through those negotiations those particular
10 instances were localized and terminated, were they not?

11 A Not locally, but they were solved.

12 Q Now, could you -- strike that, please.

13 The incidents occurred, did they not, as the
14 result of a general advance of the revolutionary armies
15 under Chiang Kai-shek into North China?

16 A Yes.

17 Q Could you tell us just what happened at Tsinan
18 which made it necessary to send Japanese troops to pro-
19 tect the interests of Japanese nationals there?

20 A With the coming of the revolutionary forces
21 Japanese residents in Tsinan sustained serious damages,
22 and with this, opinion in Japan gradually began to make
23 itself felt in favor of protecting our interests on
24 the spot.

25 THE MONITOR: Correction on the first half

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1 of the statement: In the previous year, the year pre-
2 ceding the year in question, there was the Nanking Inci-
3 dent where Japanese had suffered much damage at the
4 hands of Chinese forces and the British, American, and
5 Japanese governments sent troops. Now, since that
6 incident, the public opinion in Japan had become har-
7 dened and became stronger for the protection of Japan-
8 ese interests on the spot.

9 Q And part of that first incident, 1927, resulted
10 in another incident which occurred in Nanking, did it
11 not?

12 A I am not able to relate the circumstances very
13 fully. But as I have said, the Nanking Incident
14 occurred. Japanese residents in Nanking sustained
15 serious losses. Public opinion in Japan called for the
16 protection of Japanese rights in that area. At this
17 point the cabinet -- there was a cabinet change, and
18 the cabinet of Premier TANAKA came into power. General
19 TANAKA assumed the post of Foreign Minister in addition
20 to that of Premier, and in view of this public opinion
21 he was forced to form his policies in line with such
22 opinion.

23 THE MONITOR: Correction on the first portion
24 of the statement: I cannot explain the relationship
25 between these series of incidents.

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1 MR. FURNESS: What was that again?

2 THE MONITOR: I cannot explain the relationship
3 between these series of incidents.

4 Q But the Japanese Legation made every effort,
5 did it not, to settle that incident as well as the Tsinan
6 Incident?

7 A Yes, they did.

8 Q And one of the officials of that legation who
9 accomplished such settlement was the accused SHIGEMITSU,
10 was it not?

11 A Yes.

12 Q Now, on page three of your affidavit you state
13 that the consulate made the greatest effort to settle
14 these incidents by negotiation and peaceful means so
15 that they might not be used as pretexts for use of force.
16 In making those efforts, you were acting, were you not,
17 under the supervision of the Japanese Legation in China?

18 A From the legal standpoint, consulate generals
19 do not act under the supervision of legations, but they
20 do act in close cooperation with them. It goes without
21 saying that on the whole they respect the opinions of
22 legations.

23 Q And the opinions of the legation and of the
24 officials, including SHIGEMITSU, were that every effort
25 should be made to avoid cause for such incidents and to

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1 solve the problems which you mentioned, is that correct?

2 A They were.

3 Q Now, on page 5, the middle of the last paragraph,
4 and on page 6, the paragraph in the middle of the page,
5 you outline the efforts that you made when you visited
6 the headquarters at Mukden to persuade them not to
7 resort to force, and stated that you were sure that
8 such incidents could be settled through peaceful nego-
9 tiations. Were you, in trying to persuade them to do
10 this, acting in part on the basis of certain negotia-
11 tions which you know the Minister to China was trying to
12 arrange?

13 A As you say.

14 Q That consisted, did it not, of conferences
15 with Mr. T. V. Soong, the Finance Minister of the
16 Republic of China, and Chief of the Administrative,
17 Yuan, as a result of which Mr. SHIGEMITSU planned to
18 proceed to Mukden with Soong?

19 A It is as you say. And I remember that both
20 of them were intending to leave for Mukden on the 20th
21 of September.

22 Q Their plan was to talk with the young marshal,
23 Chang Hsueh-Liang, the war lord of Manchuria, and Count
24 UCHIDA, president of the South Manchurian Railway, in
25 order to find a way out of the strained situation?

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1 A Yes, that is as you say.

2 Q And since the incident occurred on the 18th,
3 the plan to be carried out on the 20th could not be
4 carried through?

5 A Yes, as you say.

6 Q Now, after the incident occurred, are you
7 familiar with the conferences which Mr. SHIGEMITSU
8 had with Mr. Soong in an effort to have a joint com-
9 mission appointed to confer and work out amicable set-
10 tlement of the negotiation through direct negotiation
11 between China and Japan?

12 A Yes.

13 Q I show you a photostatic copy of certain tele-
14 grams, and call your attention to the official seal at
15 the top, and ask you if that shows that they are official
16 documents of the Foreign Office of Japan?

17 I can, instead, show you the original of the
18 document of which that is a photostatic copy.

19 A These telegrams were also transmitted to us.
20 We received copies of them at our consulate general in
21 Mukden. So I can assure you that they are telegrams
22 sent by SHIGEMITSU to Tokyo.

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1 MR. FURNESS: I now offer in evidence a
2 series of five telegrams and ask they be marked as
3 an exhibit and ask further for leave to withdraw them
4 in favor of a photostatic copy.

5 THE PRESIDENT: Before they are accepted,
6 I would like to be satisfied that this cross-
7 examination is within the scope of the examination
8 in chief. I would like counsel also to remain at
9 the lectern and to employ the services of a Page if
10 he wishes any document to be conveyed to a witness in
11 the box. I cannot be sure that any statements made
12 by counsel in his perambulations between the lectern
13 and the witness box will be properly recorded.

14 I cannot speak of the practice of the courts
15 in other countries, but I know in British courts you
16 are not allowed to leave the table and go to the box
17 except under very special circumstances.

18 MR. FURNESS: It is quite common practice,
19 I think, sir, in the courts of the United States. I
20 know I have done it often, but I shall obey your in-
21 structions hereafter.

22 THE PRESIDENT: There is the added objection
23 here in the difficulty of recording what you say as
24 you walk from the lectern to the dock, and you said
25 quite a lot.

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1 I want you to explain to the Tribunal,
2 Major Furness, how this cross-examination arises out
3 of the examination in chief -- that is, out of the
4 statements in the affidavit. I do not question your
5 ability to do so; but, before the document is ad-
6 mitted, I must see that it is relevant.

7 MR. FURNESS: The witness, in his affidavit,
8 testified to the incident, what happened before it,
9 what happened on the night the incident occurred,
10 and his efforts and the efforts of the Foreign
11 Office to localize and end the incident. I am try-
12 ing to bring out the full truth of those efforts and
13 show just what happened and just how they tried to
14 end it.

15 I call specific attention to page 6, middle
16 paragraph, third from the last sentence in which I
17 quote:

18 "On the day of September 19, in my contin-
19 ued efforts to persuade the Army to cease military
20 activities, I visited the headquarters of the Kwan-
21 tung Army several times, conferred with officers in
22 the Kwantung Army, headquarters of the Kwantung Army
23 having been moved by this time from Port Arthur to
24 Mukden."

25 I call further attention --

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1 THE PRESIDENT: What bearing have the
2 negotiations between Shanghai and the Foreign Office
3 on that particular passage you quoted?

4 MR. FURNESS: Sir, that the basis on which
5 he could make such persuasion were those telegrams
6 which showed what efforts were being made.

7 THE PRESIDENT: This witness had nothing
8 to do with that, and his deposition does not cover
9 it.

10 MR. FURNESS: I would be glad to ask him a
11 further question which may qualify it, sir.

12 BY MR. FURNESS (Continued):

13 Q On page 6 of your affidavit, the third from
14 the last sentence, you state that on September 19,
15 in your continued efforts to persuade the Army to
16 cease military activities, you visited the headquart-
17 ers of the Kwantung Army. Were you basing your ef-
18 forts to persuade them on certain copies of tele-
19 grams which had been sent to the Mukden Consulate
20 which showed that there was some reason for your say-
21 ing that this incident could end peaceably?

22 A Since the Japanese Government was in favor
23 of a peaceable settlement and of localizing the inci-
24 dent, since we were able to imagine the Japanese
25 Government's attitude to be such, I acted in line

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1 THE PRESIDENT: What bearing have the
2 negotiations between Shanghai and the Foreign Office
3 on that particular passage you quoted?

4 MR. FURNESS: Sir, that the basis on which
5 he could make such persuasion were these telegrams
6 which showed what efforts were being made.

7 THE PRESIDENT: This witness had nothing
8 to do with that, and his deposition does not cover
9 it.

10 MR. FURNESS: I would be glad to ask him a
11 further question which may qualify it, sir.

12 BY MR. FURNESS (Continued):

13 Q On page 6 of your affidavit, the third from
14 the last sentence, you state that on September 19,
15 in your continued efforts to persuade the Army to
16 cease military activities, you visited the headquart-
17 ers of the Kwantung Army. Were you basing your ef-
18 forts to persuade them on certain copies of tele-
19 grams which had been sent to the Mukden Consulate
20 which showed that there was some reason for your say-
21 ing that this incident could end peaceably?

22 A Since the Japanese Government was in favor
23 of a peaceable settlement and of localizing the inci-
24 dent, since we were able to imagine the Japanese
25 Government's attitude to be such, I acted in line

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1 with such suppositions. But, at the same time,
2 Minister SHIGEMITSU's telegrams were of great assist-
3 ance to me.

4 THE MONITOR: Correction: We also paid
5 due respect to the opinion offered by Mr. SHIGEMITSU.

6 THE PRESIDENT: I understand him to say that
7 he was influenced by the telegrams; and, under those
8 circumstances, you are entitled to press for admis-
9 sion.

10 MR. FURNESS: Thank you, sir.

11 THE PRESIDENT: These telegrams are admit-
12 ted.

13 MR. DARSEY: May I be heard, your Honor,
14 on the admission of the telegrams -- on the offering
15 of the telegrams?

16 THE PRESIDENT: Is it worth while in view
17 of what the witness said?

18 MR. DARSEY: My objection is not to the
19 substance of the telegrams. I am familiar with
20 their content and have no objection whatever to the
21 substance. It doesn't appear to me to be essential
22 cross-examination of this witness to have these
23 telegrams received in evidence at this time. It
24 seems to me they should go in evidence at the time
25 counsel is putting on his case in defense of his

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1 client.

2 THE PRESIDENT: According to the practice
3 of my court, counsel is entitled to tender a document
4 which, during cross-examination, is admitted by a
5 witness to have influenced his action.

6 MR. DARSEY: I can well understand that
7 that is the case normally, but the President is
8 aware that the case has been broken down into sec-
9 tions. I am not familiar intimately with the case
10 against the particular defendant. It may well be
11 that the attorney in charge of the prosecution of
12 the particular defendant may have some objections
13 which the Court might determine to be valid to the
14 receipt of these telegrams in evidence at the time
15 the defense of this particular defendant is put on.

16 THE PRESIDENT: When we permitted this
17 case to be broken up into sections, we did not make
18 any terms about departing from well established
19 practices in our own courts. I cannot see that any
20 practical difficulty arises from admitting the docu-
21 ments now.

22 What is the number of the exhibit?

23 CLERK OF THE COURT: Defense's documents
24 3, 4, 5, 6, and 7, consolidated together for identi-
25 fication, are given collectively exhibit No. 246.

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1 (Whereupon, defense's exhibit No.
2 246 was admitted in evidence.)

3 MR. FURNESS: Have copies been distributed
4 to the Court?

5 THE PRESIDENT: Yes.

6 MR. FURNESS: I then read the telegram:

7 "From Minister Shigemitsu at Shanghai
8 to Foreign Minister Shidehara

9 Dispatched from Shanghai afternoon 19.9.1931
10 received in the afternoon, 19.9.1931.

11 "Telegram No. 974-1 (Cipher, strictly confidential,
12 very urgent)

13 "On the morning of the 19th, by special re-
14 quest of Mr. T. V. Soong, I had a pretty long talk
15 with him on the clash of the troops of both count-
16 ries in Manchuria. Soong eagerly expressed his
17 opinion that, in order to save the general situation,
18 we should do our best to restrain the incident from
19 expanding, and in short proposed to appoint a power-
20 ful commission of about three members from both
21 sides to investigate and settle the incident, in
22 order thereby to mitigate disastrous effects upon
23 the relations between Japan and China, as well as
24 both peoples. His proposal was of course personal.
25 (To be concluded)"

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1 THE PRESIDENT: At this stage we will recess
2 for fifteen minutes.

3 (Whereupon, at 1445, a recess was
4 taken until 1500, after which the proceed-
5 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 MR. FURNESS: Continuing with the reading
4 of the second page of the telegram which I started
5 reading before the recess:

6 "But after due considerations, I thought it
7 to be an appropriate step and replied to him that
8 I would hurry to find out the opinion of the Govern-
9 ment and give him a reply, asking him at the same
10 time if his plan was workable on the part of the
11 Chinese Government. Soong answered that if my reply
12 should be favorable, he would fly to Nanking imme-
13 diately to obtain approval, and that he himself would
14 join the commission.

15 "I will report separately by telegram about
16 the details of this interview, but its gist being as
17 above, the opinion of the Government, if provisional,
18 concerning this proposal and your directive for my
19 further conducting negotiations in this regard are
20 urgently awaited.

21 "Reported to Mukden, Nanking and Peiping."

22 "No, 35 --

23 THE PRESIDENT: How many do you propose to
24 read, Major Furness? We have no doubt about the
25 admissibility of this document, but we are much con-

1 cerned about the extent to which the defense should
2 be able to read their documents into the record at
3 this stage. Of course, you may question the witness
4 on the documents.

5 MR. FURNESS: I did propose, sir, to read
6 them all, and then enter my cross-examination. I
7 think it necessary in order to give a true picture --
8 I think it would be shorter than if I asked questions.

9 THE PRESIDENT: Read the third one that is
10 dated the 19th; the others bear later dates. It was
11 received on the 20th, but sent on the 19th.

12 MR. FURNESS: The second one is dated the
13 19th too, sir.

14 THE PRESIDENT: The witness could not have
15 been influenced by those later telegrams.

16 MR. FURNESS: There is further testimony in
17 this affidavit which I think qualifies those as well,
18 sir.

19 THE PRESIDENT: I think you had better ques-
20 tion him about the others instead of reading them,
21 Major Furness. We want to keep order in this matter.
22 You are not prejudiced in any way; you have got your
23 document admitted, and those telegrams that could
24 have influenced the witness were read into the record.
25 Now that is sufficient.

1 MR. FURNESS: Shall I then complete the
2 reading of this telegram, and read the second and
3 third, which are both dated --

4 THE PRESIDENT: You have read two.

5 MR. FURNESS: No, I have not finished read-
6 ing one.

7 THE PRESIDENT: Read the second; that is all
8 right. You have read two, have you not? I see the
9 first two pages constitute one telegram --

10 MR. FURNESS: That is right, sir.

11 THE PRESIDENT: (Continuing) -- although there
12 appear to be two telegrams.

13 MR. FURNESS: According to diplomatic prac-
14 tice; I do not know why, sir.

15 THE PRESIDENT: Read the second telegram,
16 Major Furness.

17 MR. FURNESS: I will leave out the qualify-
18 ing parts, except to show that on the afternoon of
19 the 19th (reading):

20 "Received in the forenoon 20.

21 "To Foreign Minister Shediara, from Minister
22 Shigezitsu.

23 "With reference to my telegram No. 974" --
24 the preceding telegram --

25 "The proposal of Soong may not at once serve

1 our purpose in the present urgency of the situation
2 in Manchuria, but it may strengthen our general stand
3 in regard to the incident. Besides, it may not only
4 be usefully taken advantage of in future, but also
5 may serve as a balk against any radical change of
6 atmosphere on the Chinese side. I am, therefore, of
7 opinion that the proposal should be quickly accepted
8 in principle. Your instruction is awaited by return
9 of telegram. The constitution of the commission,
10 for instance, may be left to a further consideration."

11 The next telegram --

12 THE PRESIDENT: You are not going to read
13 that until you satisfy us that you are entitled to.
14 You say there is something in the affidavit of the
15 witness which justifies you in pressing for the read-
16 ing of the further telegrams. What is it?

17 MR. FURNESS: Could I say further that the
18 other telegrams show what disposition was made of
19 the proposals, sir.

20 THE PRESIDENT: They could not have in-
21 fluenced this witness. They are outside of the
22 examination in chief, outside the scope of his affi-
23 davit.

24 MR. FURNESS: I will read the part of the
25 affidavit which I have in mind. It appears on page

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1 6, the third sentence of the last paragraph.

2 "Despite all efforts to control the situa-
3 tion, the Army continued with its occupation of Man-
4 churia which was consolidated by the Spring of 1932."

5 These telegrams show the efforts which were
6 made to control the situation.

7 THE PRESIDENT: You may give that evidence
8 later. That will not be shut out. That shows
9 SHIGEMITSU's part.

10 MR. FURNESS: It also shows the full truth
11 of the Mukden Incident.

12 THE PRESIDENT: We cannot concede that,
13 Major Furness.

14 MR. FURNESS: As your Honor points out, the
15 telegrams are a part of the record, and, therefore,
16 the interests of my accused are not prejudiced.

17 BY MR. FURNESS: (Continuing)

18 Q MORISHIMA, on page 6, third paragraph,
19 third sentence, you state: "Despite all efforts
20 to control the situation, the Army continued with
21 its occupation of Manchuria which was consolidated
22 by the Spring of 1932." Could you state what efforts
23 were made by the Minister to China from Japan to
24 control the situation?

25 A As I remember, the situation was very serious,

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1 and in order that it should not be aggravated any
2 worse SHIGEMITSU had two policies in mind.

3 Q What were those policies?

4 A First, in order that the incident should
5 not expand into Northern Manchuria, he tried his best
6 to prevent this; and, second, in order that the in-
7 cident should not expand into China proper, he tried
8 to persuade the Vice Minister of the Japanese --

9 THE MONITOR: His idea was to try to avoid
10 the spread of the incident into the other part of
11 China, and with that view in mind, he thought or
12 tried to urge the Japanese Navy to take a moderate
13 attitude.

14 Q Do you know why he was particularly appre-
15 hensive of its spreading into Northern Manchuria?

16 A That is, Russia still held vital interests
17 in Northern Manchuria, as well as the Northern
18 Manchurian Railway, and with the advance of the
19 Japanese Army there was fear of trouble -- of estrang-
20 ing the Japanese-Russian relations. In order to pre-
21 vent this, he held these views.

22 THE PRESIDENT: Now, this is getting rather
23 remote, but there is no objection by the prosecution.

24 MR. DARSEY: There is an objection. It is
25 without the scope of the affidavit on direct examination.

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1 There is nothing in the affidavit with respect to
2 what SHIGEMITSU has done.

3 MR. FURNESS: There is a reference to all
4 efforts to control the situation. I am trying to
5 show at least one of those efforts on the part of the
6 man who is accused of having tried to plan this in-
7 cident, and committed murders in connection with it.

8 THE PRESIDENT: Of course, the witness
9 refers to the situation at Mukden, which was within
10 the scope of his very limited jurisdiction. The
11 whole attitude of SHIGEMITSU, of course, is quite
12 beyond the scope of this affidavit.

13 MR. FURNESS: I submit, sir, that his
14 testimony was that he was apprehensive of the inci-
15 dent spreading into Northern Manchuria, and was the
16 reason I asked the question.

17 THE PRESIDENT: I am afraid we must dis-
18 allow further questions on those lines, Major Furness.

19 MR. FURNESS: Then I shall ask him, if I may,
20 whether he knows what happened to the plan to appoint
21 a joint commission which was outlined in the telegrams
22 which have been read.

23 THE PRESIDENT: Now the telegrams were ad-
24 mitted because he said he was influenced by them,
25 but the scope of the joint commission is a matter

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1 really beyond this affidavit.

2 MR. FURNESS: Is the question excluded in
3 this instance?

4 THE PRESIDENT: Yes, the question is dis-
5 allowed.

6 BY MR. FURNESS (Continued)

7 Q MR. MORISHIMA, you testified that in the
8 advance of the armies of China toward the North,
9 treaty rights acquired by Japan in protection of
10 its nationals and property were violated.

11 THE PRESIDENT: That is repetitive.

12 MR. FURNESS: I will qualify it.

13 Q Could you tell us what treaty rights were
14 violated and how they were violated?

15 A I should like to put a question here. Does
16 this refer to Manchuria or to China proper?

17 Q It refers to Manchuria.

18 A With respect to China, there were several
19 violations with regard to the trade treaty. With
20 respect to Manchuria, there were several difficult
21 problems. One, the problem of constructing a parallel
22 -- railroad parallel to the South Manchurian Railroad;
23 second, with respect to the Japanese nationals resid-
24 ing there; third, to illegal taxation and also the op-
25 pression of Koreans -- business taxes -- the oppression

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1 of Koreans and also the right to lease land.

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1 Q Were there any other violations of treaty
2 rights of Japanese citizens in China other than the
3 trade treaties that you have mentioned?

4 A The purport of your question -- the contents
5 of your question is very ambiguous and it is very
6 difficult for me to answer. What I am referring
7 to is the treaty rights as stated in the trade pact.

8 Q I will drop that line. I will now ask you
9 a question regarding the last paragraph on Page Six
10 of your affidavit, first two sentences of which read:
11 "Under the general orders which were issued on the
12 night of September 18, all of the Japanese armies
13 in Manchuria came into operation. The Korean Army
14 which was stationed on the border crossed the Yalu
15 River and came over to participate in the activities."
16 The movements of those armies were not pursuant to
17 the orders of the Cabinet or to Imperial Order, were
18 they?

19 A When the Kwantung Army enters a territory
20 outside of the Railway Zone, it is necessary to get
21 an Imperial command. But in cases of a sudden emer-
22 gency incident, I understand that the Commander of
23 the Army on the field has the absolute authority.

24 Q But the action of the Army and the later
25 occupation of Manchuria despite the efforts to control

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1 the situation by the Foreign Office and the Consular
2 officials and the Legation officials made it a fait
3 accompli which made any further efforts to end the
4 situation, end the incident, impossible, did it not?

5 A The Japanese Government at home and the
6 Japanese official organs on the spot held the
7 policy of localizing the incident. However, the
8 Army, the Kwantung Army on the field neglected --
9 disregarded the orders from the Central Government
10 and, for this reason, the situation aggravated.

11 Q It became an accomplished fact in other words?

12 A It is as you say.

13 MR. FURNESS: No further questions.

14 MR. HOZUMI: Mr. President, I am HOZUMI, de-
15 fense counsel for TOGO.

16 CROSS-EXAMINATION (Continued)

17 BY MR. HOZUMI:

18 Q Mr. MORISHIMA, are you aware of the fact
19 that Mr. TOGO visited Manchuria upon the orders of
20 the Foreign Minister in 1929?

21 A Yes, I am aware of that.

22 Q The reason why -- for which TOGO went to
23 Manchuria was to investigate various difficult mat-
24 ters -- into various difficult matters which arose
25 in Manchuria, as you state in your affidavit on

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1 Page Five of your affidavit.

2 THE MONITOR: Correction: "Page Three in
3 the English copy and Page Five in the Japanese."

4 Q (Continuing): The questions concerning
5 Chang Hsueh Liang's efforts to recover the lost
6 territory.

7 A As you just stated, he went there for the
8 purpose of a general investigation and on June, I
9 believe it was June, Chang Hsueh Liang attempted
10 to regain by force the Chinese Eastern Railway from
11 the Soviets and for this reason TOGO was dispatched
12 to Harbin because of the serious nature of the sit-
13 uation and I, myself, went from Harbin, from Mukden
14 to Harbin.

15 Q What opinion did Mr. TOGO form as a result
16 of the investigation?

17 MR. DARSEY: I object to that, Mr. Pres-
18 ident, as being wholly without the scope of the
19 direct examination.

20 THE PRESIDENT: Can you show how that arises
21 out of the examination in chief, how it arises out
22 of anything said in the affidavit?

23 MR. HOZUMI: I believe it is relevant as
24 a question which would show the relationship which
25 existed between Japan and Manchuria.

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1 THE PRESIDENT: That is quite beyond the
2 scope of the affidavit.

3 BY MR. HOZUMI (Continued):

4 Q Then, are you aware of the fact that the
5 Chinese Eastern Railway was purchased satisfactorily
6 as the result of TOGO's visit in, your visit, then
7 TOGO's visit on which occasion you went along with
8 them?

9 MR. DARSEY: I object to that for the same
10 reason.

11 THE PRESIDENT: Objection upheld.

12 BY MR. HOZUMI (Continued):

13 Q Did anti-Japanese movement in Manchuria
14 also affect China proper?

15 A After the Washington Conference, the anti-
16 Japanese movement in China became very intense.
17 After the Manchurian Incident, it is needless to
18 say, that the anti-Japanese movement became more
19 intense.

20 Q Did the anti-Japanese movement in China
21 help to spur anti-Japanese movement in Manchuria?

22 A Naturally, it did.

23 THE PRESIDENT: The Court isn't going to
24 take objections.

25 MR. DARSEY: If the Court please, the answer

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1 was given before I can overhear the question having
2 been translated into English. Of course the question
3 is objectionable and I move the answer be stricken.

4 THE PRESIDENT: What has defense counsel
5 to say?

6 MR. HOZUMI: I thought the translation of
7 the answer was over when I passed on to the next
8 question.

9 THE PRESIDENT: Objection upheld.

10 BY MR. HOZUMI (Continued):

11 Q Did the Japanese Government devise any
12 measure to solve this problem, that is, anti-Japanese
13 problem in China proper and in Manchuria?

14 MR. DARSEY: I object to the question, Mr.
15 President. It makes no difference that there was
16 anti-Japanese feeling in Manchuria. It is no justifi-
17 cation for aggression. It seems to me a complete
18 waste of the time of the Tribunal to be conducted in
19 a cross-examination along this line.

20 THE PRESIDENT: Objection upheld.

21 MR. BROOKS: If the Tribunal please, I
22 would like to find a ruling --

23 THE PRESIDENT: You cannot have it. You
24 cannot come to the lectern at this stage.

25 MR. BROOKS: This affects all of the defense,

1 your Honor.

2 THE PRESIDENT: It does not. If it does,
3 you can come there at the right time. This is not
4 it. We will hear one cross-examining counsel at a
5 time.

6 MR. BROOKS: If the Court please, I am
7 not asking to cross-examine.

8 THE PRESIDENT: Well, let this man finish
9 his cross-examination.

10 MR. BROOKS: May I inquire as a point of
11 information --

12 THE PRESIDENT: Please allow the cross-
13 examining counsel to continue with his cross-examin-
14 ation. We are determined to maintain order here.

15 MR. HOZUMI: So sorry, your Honor.

16 MR. BROOKS: If the Tribunal please, I
17 would like for a point of information to know, since
18 this is a joint trial, if a matter is raised by
19 another defense counsel at the lectern, isn't it
20 proper for defense counsel for a different defendant
21 to get up and raise a point or ask for a ruling of
22 the Court and if not, what time should that ruling
23 be requested or an objection made?

24 THE PRESIDENT: You have no right to inter-
25 rupt a counsel cross-examining except to take an

1 objection and you did not intend to take an ob-
2 jection. We will hear you now.

3 MR. BROOKS: With all due respect to the
4 Court, I was not heard and not given an opportunity
5 to object. I was wanting to object and am objecting
6 now. I wanted to point out to the Tribunal that
7 we are having presented by affidavit what is supposed
8 to be the witness' answers to direct questions.
9 Now it is apparent to me that these are summations
10 of the parts that the prosecution believes will
11 foster their case and that there is a lot more
12 that has been said that has not been brought in
13 and would under normal conditions be part of the
14 record of the proceedings on an examination in
15 chief by question and answer.

16 THE PRESIDENT: Why are you there to cross-
17 examine? Aren't you there to cross-examine in order
18 to bring out things the witness has not already said?

19 MR. BROOKS: I am trying to raise an ob-
20 jection to the limit, if the Court will hear me out,
21 being placed upon our cross-examination; and I think
22 that we should be given an unusual amount of leniency
23 and the strict rules should not be applied because
24 of the material facts that are left out often where
25 a thing is summarized in an affidavit which would

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21 being placed upon our cross-examination; and I think
22 that we should be given an unusual amount of leniency
23 and the strict rules should not be applied because
24 of the material facts that are left out often where
25 a thing is summarized in an affidavit which would

1 normally, if the normal procedure is followed, be
2 in the testimony and the proceedings here brought
3 out in that witness' answer.

4 THE PRESIDENT: You are not concerned with
5 the limitations placed by this Tribunal on other
6 cross-examining counsel. Your concern is with
7 limitations placed on you and so far you have not
8 begun to cross-examine this witness.

9 What an intolerable situation would arise
10 if forty counsel could jump up and criticize the
11 limitations placed by the Court on the cross-examin-
12 ation by another counsel! You would be satisfied
13 to limit yourself to what the Court says to you
14 when you are cross-examining. Now please proceed
15 with your cross-examination, if you have any.

16 MR. DARSEY: Mr. President, I consider
17 that the remarks of counsel constitute a charge
18 of suppression of evidence which I either think he
19 should be required to substantiate or withdraw.

20 THE PRESIDENT: I think he is under a mis-
21 apprehension and, for the time being, we are satis-
22 fied to remove that misapprehension if we can.

23 MR. BROOKS: If the Court please, I would
24 like to explain my position and be fully heard.
25 I have yet to be fully heard at this microphone on

1 a point of this type. And my position is, sitting
2 here at the head table, this matter does affect
3 me definitely. Any ruling or any precedent made by
4 the Court on these matters is precedent for the
5 rest of us to follow. And I think that --

6 THE PRESIDENT: Surely you must know, if
7 you have had any experience at all, that you cannot
8 jump up in any Court and criticize the rulings of
9 the court. You must accept them. Order could not
10 be kept on those terms. We will hear nothing further
11 from you but we will allow you to proceed to cross-
12 examine this witness.

13 MR. BROOKS: We have a different order of
14 procedure. I have another one that wants to cross-
15 examine next. I will withdraw.

16 THE PRESIDENT: We will adjourn now until
17 half-past nine tomorrow morning.

18 (Whereupon, at 1600, an adjournment
19 was taken until Friday, 2 August, 1946, at
20 0930.)
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14 procedure. I have another one that wants to cross-
15 examine next. I will withdraw.

16 THE PRESIDENT: We will adjourn now until
17 half-past nine tomorrow morning.

18 (Whereupon, at 1630, an adjournment
19 was taken until Friday, 2 August, 1946, at
20 0930.)
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